



**NEGOTIATIONS ON AN ECONOMIC PARTNERSHIP AGREEMENT  
BETWEEN WEST AFRICA AND THE EUROPEAN UNION**

**DRAFT JOINT TEXT**

*AFTER CONCLUSION OF NEGOTIATIONS BY SENIOR OFFICIALS  
FEBRUARY 2014*

**ECONOMIC PARTNERSHIP AGREEMENT (EPA) BETWEEN  
THE WEST AFRICAN STATES, ECOWAS AND WAEMU  
OF THE ONE PART  
and  
THE EUROPEAN COMMUNITY AND ITS MEMBER STATES  
OF THE OTHER PART**

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THE REPUBLIC OF MALI,  
THE REPUBLIC OF NIGER,  
THE FEDERAL REPUBLIC OF NIGERIA,  
THE REPUBLIC OF SENEGAL,  
THE REPUBLIC OF SIERRA LEONE,  
THE TOGOLESE REPUBLIC

and

THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS),

and

THE WEST AFRICAN ECONOMIC AND MONETARY UNION (WAEMU),

and

THE KINGDOM OF BELGIUM,  
THE REPUBLIC OF BULGARIA,  
THE CZECH REPUBLIC,  
THE KINGDOM OF DENMARK,  
THE FEDERAL REPUBLIC OF GERMANY,  
THE REPUBLIC OF ESTONIA,  
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THE PORTUGUESE REPUBLIC,  
THE ROMANIA,  
THE REPUBLIC OF SLOVENIA,  
THE SLOVAK REPUBLIC,  
THE REPUBLIC OF FINLAND,  
THE KINGDOM OF SWEDEN,  
THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,

and

THE EUROPEAN UNION,

of the other part,

HAVING REGARD TO the Georgetown Agreement establishing the African, Caribbean and Pacific Group of States (ACP), the Treaties establishing the Economic Community of West African States (ECOWAS) and the West African Economic and Monetary Union, of the one part, and the Treaty on the operation of the European Union, of the other part;

HAVING REGARD TO the ACP-EC Partnership Agreement signed in Cotonou on 23 June 2000 and revised in Luxembourg on 25 June 2005 and in Ouagadougou on 22 June 2010 hereinafter referred to as the 'Cotonou Agreement';

HAVING REGARD TO the importance of the links between the European Union, its Member States and the West Africa Region and of the values which those parties share;

WHEREAS the European Union, its Member States and the West Africa Region wish to strengthen their close ties and to establish a lasting relationship based on partnership, development and solidarity;

CONVINCED OF the need to promote economic and social progress for their peoples, taking into account sustainable development and environmental-protection requirements;

HAVING REGARD TO the importance which the Parties attach to observance of the principles laid down in the UN Charter and, in particular, to respect for human rights;

HAVING REGARD TO the need for greater integration amongst the States of West Africa and for stronger relations between Europe and Africa;

WHEREAS it is the task of the Economic Community of West African States (ECOWAS) and the West African Economic and Monetary Union (WAEMU) to promote regional cooperation and integration in anticipation of a West African economic union, with a view to raising living standards, maintaining and increasing economic stability, strengthening relations amongst Member States and contributing towards the progress and the development of the African continent;

RESTATING their commitment to work together with a view to achieving the ACP-EU partnership objectives as set out in the Cotonou Agreement – namely, the reduction and eventual eradication of poverty, sustainable development and the smooth, successful integration of the ACP countries within the world economy;

WHEREAS the Millennium Development Goals stemming from the Millennium Declaration adopted by the UN General Assembly in 2000, such as the eradication of hunger and extreme poverty, and the development objectives and principles agreed at UN conferences provide a clear vision and

must underpin the partnership between the West Africa region and the European Union and its Member States within the framework of this Agreement;

WHEREAS the European Union and its Member States wish to provide significant support for West Africa's efforts to reform and adjust at economic level and in terms of social development, and whereas they have undertaken to implement the Joint EU-Africa strategy ';

HAVING REGARD TO the difference in the level of economic and social development between the West Africa region of the one part and the European Union and its Member States of the other part, and to the need for the West Africa region's integration and economic-development process to be strengthened;

WHEREAS in particular the West Africa region includes a large number of LDCs and whereas it thus faces serious difficulties on account of its particular economic situation and its specific requirements relating to development, the promotion of its trade and its finances;

EMPHASISING THE FACT THAT the Economic Partnership Agreement (EPA) is in particular based on the gradual, asymmetrical liberalisation of trade in goods and services, to the benefit of the States of the West Africa region;

REAFFIRMING that the EPA must be a development tool serving to promote in particular sustainable growth, increase the West African States' production and export capacity, support the structural conversion, diversification and competitiveness of West African economies, bring about the development of trade, technology and job creation in the West African States and attract investment to the region;

REAFFIRMING, furthermore, that stability and a lasting peace are factors crucial to the achievement of genuine regional integration in West Africa, to which the EPA will have to contribute;

EXPRESSING their determination to work together in order to achieve the above-mentioned objectives whilst safeguarding the legacy of the Cotonou Agreement, and desiring, for the above reasons , to conclude a mutually beneficial EPA which will genuinely foster development ;

HAVE AGREED AS FOLLOWS:

## **PART I**

### **ECONOMIC AND TRADE PARTNERSHIP FOR SUSTAINABLE DEVELOPMENT**

#### **Article 1**

#### **Objectives**

1. The objectives of this Agreement are:
  - a) to establish an economic and trade partnership designed to bring about swift, sustained, job-creating economic growth, to reduce and eventually eradicate poverty, to raise living standards, to bring about full employment, to diversify economies and to increase real income and production in a way which is compatible with the WA region's needs and which takes into account the Parties' differing levels of economic development;

- b) to foster regional integration, economic cooperation and good economic governance in the West Africa region;
  - c) to increase intra-regional trade and to foster the establishment of a unified and efficient regional market in West Africa;
  - d) to promote the gradual and harmonious integration of the WA region into the global economy, in accordance with its political choices, priorities and development strategies;
  - e) to strengthen the economic and trade relations between the Parties on a basis of solidarity and mutual interests, in accordance with WTO requirements and taking into account the major competitiveness differential between the two regions,
2. For the purpose of achieving the objectives set out in paragraph 1 of this Article, the Parties shall undertake to:
- a) help improve the supply capacity and the competitiveness of the WA region's production sectors;
  - b) increase the WA region's capacities as regards trade policies and trade-related rules;
  - c) help put into effect the commitments made by the Parties within international fora as regards sustainable development, the financing of development, enhancing the role of trade in development and increasing the amount and the effectiveness of aid;
  - d) establish and put into operation an effective, predictable and transparent regional regulatory framework in the West Africa region with a view to promoting investment, the development of West Africa's private sector, public/private dialogue and a partnership between WA/EU private sectors;
  - e) establish an effective, predictable and transparent framework for cooperation measures enabling the objectives set out in this Agreement to be pursued, including the EPA development programme and provisions relating to the implementation thereof;
  - f) pursue gradual asymmetrical liberalisation of trade between the Parties and increase cooperation in sectors concerned with trade in goods and services.

## Article 2

### **Principles**

1. The EPA is based on the essential principles and elements of the Cotonou Agreement as set out in Articles 2, 9, 19 and 35 thereof. The EPA shall build on the provisions of the Cotonou Agreement and of previous ACP-EU conventions which relate to financial cooperation, regional integration and economic and trade cooperation.

2. The EPA shall be implemented in complementarity with the Cotonou Agreement and will be viable only if the two parties' commitments, including the EU's commitments relating to development finance cooperation and trade-related aid, are put into effect.

3. The parties shall honour their commitments made towards development cooperation during the entire period of the EPA process and shall undertake to put into effect the necessary mechanisms to promote consistency in the scheduled EPA assistance needs, as restated in the EPA development programme in Part III of this Agreement and in the development cooperation .

4. Trade relations between the two regions shall be based on reciprocity and on the difference in development levels. In this respect the commitments made under this Agreement shall be in accordance with Article 34 of the Cotonou Agreement, which provides for special, differential treatment vis-à-vis the commitments between the two Parties. The Parties shall ensure in particular that the vulnerability of the WA region's economies is taken into account and that the principles of progressiveness, flexibility and asymmetry are incorporated into the trade liberalisation process, to the WA region's advantage.
5. In pursuit of the trade commitments made under this Agreement, the Parties shall not hinder the implementation of the agricultural, food-safety, public-health and education policies and all other social and economic policies adopted by the WA region in connection with its sustainable development strategy.
6. The success of the EPA depends upon the establishment of a demanding partnership based on the Parties' shared responsibility for putting it into effect. Hence the Parties shall undertake to ensure that it is viable.
7. The Parties<sup>A</sup> reaffirm their commitment made at the Doha Development Round to reduce and avoid measures likely to create distortions in trade and their support for the realisation of an ambitious outcome in this regard.
8. With a view to efficiently implementing this Agreement, the Parties shall establish joint institutions providing a permanent management and monitoring/assessment mechanism allowing to make any adjustments necessary to achieve the objectives of this Agreement.

### Article 3

#### **Economic growth and sustainable development**

1. The Parties reaffirm that the objective of sustainable development must be applied and integrated at all levels of their economic partnership, in fulfilment of their commitments set out in Articles 1, 2, 9, 19, 21, 22, 23, 28 and 29 of the Cotonou Agreement, and in particular their general commitment to economic development and to reducing and eventually eradicating poverty in a way that is consistent with the objectives of sustainable development.
2. In the context of this Agreement, the Parties shall view the sustainable development objective as a commitment to take full account of the human, cultural, economic, social, health and environmental interests of their respective peoples and of future generations.
3. In the context of the fight against poverty, the Parties reaffirm their commitments to draw up and implement programmes capable of strengthening the macroeconomic framework, promoting rapid, sustainable economic growth and putting in place the infrastructure essential to the development of the WA region's intra-regional and international trade. To that end, the Parties shall support the institutional reforms intended to bring national and regional administrations into line with the requirements of trade liberalisation and to increase the capacities of the WA region's production sectors.
4. The Parties shall support the WA region's efforts relating to the sustainable management of forests and fisheries and the emergence of modern agriculture. To that end, they shall initiate and pursue innovative forms of trade favourable to the conservation of natural resources.
5. The Parties shall seek to increase stakeholders' capacities and skills with a view to encouraging job-creation and adjusting for the EPA's social effects.

Article 4

**Regional integration**

1. The Parties acknowledge that regional integration is an integral aspect of their partnership and a powerful tool for achieving the objectives set out in this Agreement. They agree to support it vigorously.
2. For the purposes referred to in paragraph 1 of this Article, the European Party shall contribute, in accordance with the provisions of Part III by means of technical and financial assistance, to the region's integration efforts, in particular the establishment of a customs union and a common market, the introduction of macroeconomic and trade surveillance and the drawing up of regional rules with a view to making the business environment in the WA region more attractive.

**PART II**

**TRADE POLICY AND TRADE-RELATED ISSUES**

CHAPTER 1

**CUSTOMS DUTIES**

Article 5

**Scope**

The provisions of this Chapter shall apply to trade in goods between the Parties.

Article 6

**Rules of origin**

1. Within the meaning of this Article, 'originating status' shall be conferred on goods meeting the rules of origin set out in Protocol No 1.
2. At the latest, five years after the date of entry into force of this Agreement, the Parties shall draw up new rules of origin with the aim of simplifying the concepts and methods used to determine origin in the light of the West Africa region's development objectives and the African Union's integration process. In this context, the Parties shall take into account technological development, production processes and all other relevant factors which could require amendments to Protocol No 1.
3. Any amendment or revision of the rules of origin referred to in paragraph 1 shall be effected by means of a decision taken by the Joint EPA Council.

Article 7

**Customs duties**

1. 'Customs duties' shall mean duties or charges of any kind, including any form of surcharge or supplement, imposed in connection with the import or export of goods. They shall not include:

- (a) taxes or other internal charges imposed in accordance with Article 35;

(b) anti-dumping, countervailing or safeguard measures applied in accordance with Chapter 2;

(c) fees or other charges imposed in accordance with Article 8 on fees and other charges.

2. For each product, the basic customs duty to which the successive reductions set out in the Agreement are to be applied shall be that effectively applied on the day of entry into force of the Agreement.

#### Article 8

##### **Fees and other charges**

Fees and other charges as referred to in Article 7 shall be the subject of specific tariffs corresponding to the real value of services rendered and shall not represent a form of indirect protection for domestic products or a tax on imports or exports for fiscal purposes.

#### Article 9

##### **Standstill**

1. No new customs duties on imports shall be introduced on the products covered by liberalisation between the Parties, nor shall those currently applied be increased from the date of entry into force of this Agreement.

2. Notwithstanding paragraph 1 and in connection with the finalisation of the implementation of the ECOWAS common external tariff, the West Africa region may until 31 December 2014 review its basic customs duties on goods originating in the European Union insofar as the general incidence of those duties is not higher than the one of duties specified in Annex 2. The Joint EPA Council shall amend Annex 2 accordingly.

#### Article 10

##### **Elimination of customs duties on exports**

1. Products originating from the West Africa Party shall be imported into the European Union free of customs duties as defined in Article 7, with the exception of the products indicated, and under the conditions set out, in Annex ...

2. The West Africa region shall progressively reduce and eliminate customs duties as defined in Article 7 and applicable to products originating in the EU, in accordance with the timetable shown in Annex ...

#### Article 11

##### **Autonomous resources of WA Regional Economic Communities**

Under the terms of this Agreement, the parties shall agree that the autonomous financing mechanism of West African organisations tasked with regional integration be maintained until such time that a new financing mechanism will be put into effect.

#### Article 12

##### **Change in West Africa region's tariff commitments and common sectoral policies**

1. Without prejudice to the provisions of Article 10 on the elimination of West Africa's customs duties in view of the region's special development needs, particularly, the need to support common sectoral policies, the WA party may decide after agreement at the **Joint EPA Council**, to change the level of tariffs set out in Annex XXXXX, which are applied on one or several goods originating in the EU party when being imported from WA. Towards that end, the Joint EPA Council shall take a decision within a period of six months after prior notification of the European party.
2. The parties shall ensure that such a change does not result in incompatibility with 'Article XXIV of the 1994 GATT.
3. The changes in tariff commitments shall be maintained only during the period required to meet the special development needs of West Africa.

#### Article 13

##### **Export duties and taxes**

1. No new duty, export tax or charges with corresponding effect shall be introduced, nor shall those already in effect be increased as far as trade between the Parties is concerned, from the date of entry into force of this Agreement.
2. The tariff, export taxes or charges shall not exceed the same duties and taxes imposed on similar goods exported to all the other countries.
3. In exceptional circumstances where the West Africa Party can justify specific revenue needs, such as promoting infant industries, or protecting the environment, it may, after consultation with the EU Party, introduce tariffs, export levies or charges with corresponding effect on a limited number of additional products or enhance the impact of existing ones.
4. The Parties agree to review the provisions of this Article within the framework of the EPA Council in accordance with the review clause contained in this Agreement, taking into full consideration their impact on the development and diversification of the West Africa Party's economy.

#### Article 14

##### **Movement of goods**

1. Goods originating in any of the Parties shall be subject to tariff only once in the territory of the other Party. They may move freely within the other Party's territory without being subject to additional tariffs.
2. For the purpose of implementing the provisions laid down in paragraph 1 of this Article, the West Africa region shall have a five (5)-year transition period starting from the date of entry into force of the Agreement to set up a system of free movement. This timeframe may be reviewed depending on the outcome of the fiscal transition reforms achieved by the West Africa region in collaboration with the EU. Towards this end, the Parties shall periodically assess the implementation of the said reforms.
3. The Parties shall cooperate to facilitate movement of goods and to simplify customs procedures, as provided for in Chapter 5 on trade facilitation.

#### Article 15

##### **Classification of goods**

The classification of goods covered by this Agreement shall be that set out in each Party's respective customs nomenclature, in accordance with the Harmonised Commodity Description and Coding System (HS).

— Article 16

— **MFN clause**

1. The parties reaffirm their commitment to the enabling clause.
2. The EU party shall grant the West Africa party any most favorable tariff treatment that it shall offer to a third party if the EU Party becomes part of a preferential Agreement with this third party after the initialing of this Agreement.
3. After the signing of this Agreement, the WA party shall grant the EU party any most favorable tariff treatment that it shall offer to a trading partner other than countries of Africa and ACP Member States, with a share of global trade in excess of 1.5 percent and an industrialisation rate measured by manufacturing value-added as a share of GDP in excess of 10% in the year prior to the entry into effect of the preferential Agreement referred to in this paragraph. If the preferential agreement is signed with a group of countries acting individually, collectively or by means of a free trade, the threshold relating to the share of global trade considered shall be 2%.
4. Where the West African party obtains a highly substantial most favorable treatment from a trading partner referred to in paragraph 3, which is greater than the one offered by the EU party, the parties shall consult each other and shall decide together on the implementation of the provisions of paragraph 3.
5. The parties shall agree to settle any disputes regarding the interpretation or application of this Article, by engaging in truthful dialogue to arrive at a mutually satisfactory outcome.
6. The provisions of this Chapter shall not be interpreted as compelling the parties to offer mutual preferential treatments which may be attributable to the fact that one of the Parties belongs to a preferential agreement with a Third party at the time of entry into force of this Agreement.

\*For purposes of this calculation, the official WTO data on major international exporters of goods (except intra-EU trade) and UNIDO value-added data shall be used.

Article 17

**Special provisions on administrative cooperation**

1. The Parties agree that administrative cooperation is a key factor in implementing and monitoring the preferential treatment offered under this Title and undertake to curb any irregularities and fraud in respect of customs and related aspects..
2. Where a Party obtains evidence based on objective information concerning lack of administrative cooperation and/or irregularities or fraud, that Party may temporarily suspend the preferential treatment granted to the product(s) concerned in accordance with the provisions of this Article.
3. For the purpose of this Article, a lack of administrative cooperation shall be defined *inter alia* as:

- (a) a recurrent failure to comply with the requirement to verify the originating status of the product or products concerned;
- (b) a repeated refusal to carry out and/or undue delay in reporting the outcome of subsequent verification of the proof of origin;
- (c) a repeated refusal or undue delay in granting authorisation to conduct a cooperation mission to verify the authenticity of documents or the accuracy of relevant information for granting the preferential treatment in question..

4. Application of a temporary suspension shall be subject to the following conditions:

- (a) The Party which obtains the proof based on objective information, or lack of administrative cooperation and/or of irregularities or fraud must notify the Joint EPA Implementation Committee without undue delay that it has obtained evidence and objective information, and must consult the Joint EPA Implementing Committee with a view to finding a solution acceptable to both Parties based on all relevant information and objective evidence.
- (b) Where the Parties have entered into consultation with the Joint EPA Implementation Committee as provided for above and have been unable to agree on an acceptable solution within three months after notification, the Party concerned may temporarily suspend the preferential treatment granted to the product or products concerned. The Joint EPA Implementation Committee must be notified of the temporary suspension without any undue delay.
- (c) Temporary suspensions under this Article shall be limited to what is necessary to protect the financial interests of the Party concerned. Such suspensions shall not exceed a period of six months and may be renewed. The Joint EPA Implementation Committee shall be notified of temporary suspensions immediately after the decision has been made. Such suspensions shall be the subject of periodic consultations within the Joint EPA Implementation Committee, in particular with a view to terminating them as soon as the conditions for their application no longer exist.

5. At the same time as the notification to the Joint EPA Implementation Committee under paragraph 4(a) of this Article, the Party concerned shall publish a notice to importers in its Official Journal. This notice to importers shall indicate that, as far as that product is concerned, based on objective information, evidence exists to prove lack of administrative cooperation and/or the existence of irregularities or fraud.

Article 18

**Management of administrative errors**

In case of error on the part of the competent authorities in properly managing the export preferential systems, in particular in implementing Protocol .... concerning the definition of the concept of 'originating products' and methods of administrative cooperation, where such error has consequences in terms of import duties, the Party facing those consequences may ask the Joint EPA Implementation Committee to consider and adopt all the necessary measures to address the situation.

**CHAPTER 2**

**TRADE DEFENCE INSTRUMENTS**

## Article 19

### **Objectives**

1. The objectives of this Chapter are to define the conditions under which the two Parties, whilst endeavouring to develop reciprocal trade in goods, may adopt trade defence measures derogating from the provisions laid down in Articles 9, 10, and 11 as well as from Article 34 of this Agreement.
2. The Parties shall ensure that the measures taken in accordance with the provisions laid down in this Chapter do not exceed what is required to prevent or remedy the situations described in this Chapter.

## Article 20

### **Anti-dumping and countervailing measures**

1. Nothing in this Agreement shall prevent the European Union or the States of the West Africa Party, whether individually or collectively, from adopting anti-dumping or countervailing measures in accordance with the relevant WTO agreements, in particular the WTO Agreement on implementation of Article VI of GATT and the WTO Agreement on subsidies and countervailing measures.
2. For the purposes of implementing this Article, origin shall be determined on the basis of the Parties' non-preferential rules of origin, pursuant to the WTO rules of origin Agreement.
3. The peculiar circumstances of developing countries in the West Africa region shall be taken into account when the application of anti-dumping or countervailing measures is being considered. Before imposing definitive anti-dumping or countervailing measures, the Parties shall consider the possibility of constructive solutions such as those provided for in the relevant WTO agreements. The authorities responsible for the review may, for that reason, hold appropriate consultations..
4. Anti-dumping duties or countervailing measures shall remain in force only for the length of time and to the extent necessary in order to counteract the dumping or subsidies which is the source of the injury .
5. No product from the territory of one Party imported into the territory of the other Party shall be subject to both anti-dumping and countervailing duties for purposes of remedying one and the same situation arising from dumping or from export subsidies. The Parties shall ensure that anti-dumping or countervailing measures are not applied simultaneously on the same product, at the national level on the one hand, and at the regional or subregional level, on the other..
6. The Parties shall agree, each for its part, to set up a single judicial review body, which will also deal with appeals. That body's judgments shall take effect within the territory of all the States in which the disputed measure applies.
7. The provisions of this Article shall be applicable to all investigations conducted after this Agreement has come into effect..
8. The provisions of this Article shall not be subject to the dispute settlement mechanism provided for in this Agreement.

## Article 21

### **Multilateral safeguard measures**

1. Subject to the provisions of this Article, nothing in this Agreement shall prevent any Party from adopting special short-term measures in accordance with Article XIX of the 1994 General Agreement on Tariffs and Trade (GATT), the Agreement on Safeguards and Article 5 of the WTO Agreement on Agriculture.
2. For the purpose of implementing this Article, origin shall be determined on the basis of the Parties' non-preferential rules of origin, pursuant to the WTO agreement concerning rules of origin.
3. Notwithstanding the provisions of paragraph 1 and in the light of the general development objectives set out in this Agreement, including the small size of the West African States' economies, the EU Party shall exclude imports originating in States of the West Africa Party from any measure under Article XIX of GATT 1994, the Agreement on Safeguards and from any measure under Article 5 of the WTO Agreement on Agriculture.
4. The provisions laid down in paragraph 3 shall apply for a five (5)-year period with effect from the date of entry into force of this Agreement. No later than 120 days before the end of that period, the *Joint EPA Council* shall review the implementation of those provisions in the light of the West African States' development needs, in order to determine whether their implementation should be extended.
5. The provisions of this Article shall not be subject to the dispute settlement mechanism provided for in this Agreement.

## Article 22

### **Bilateral safeguard measures**

1. Subject to the provisions under this Article, any Party may adopt safeguard measures for a limited period which derogates from the provisions laid down in Articles 9, 10 and 11..
2. Safeguard measures referred to in paragraph 1 above may be adopted where a product originating in one Party is imported into the territory of the other Party in such increased quantities and under such conditions as to cause or threaten to cause:
  - a) serious injury to the domestic industry producing similar products or directly competitive products within the territory of the importing Party;
  - b) disturbances in a sector of the economy, particularly where those disturbances give rise to major social problems or difficulties which could bring about a serious deterioration in the importing Party's economic situation; or
  - c) disturbances in the markets of similar agricultural products or directly competitive agricultural products<sup>1</sup> or mechanisms regulating these markets.
3. The safeguard measures referred to in this Article shall not exceed that which is strictly necessary to prevent or remedy the serious injury or disturbances referred to in paragraphs 2, 4 and 5 . The importing Party's safeguard measures shall consist of only one or more of the following:
  - (a) suspension of any further reduction of the import duty rate of the product concerned, as provided for under this Agreement,
  - (b) increase in the customs duty on the product concerned, up to a level not exceeding the customs duty applied to other WTO Members, and
  - (c) introduction of tariff quotas on the product concerned.

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<sup>1</sup> For purposes of this Article, agricultural products shall be those covered by Annex I of the WTO Agreement on Agriculture.

4. Notwithstanding paragraphs 1 to 3 of this Article, where any product originating in one or more of the States of the EU Party is imported in such increased quantities and under such conditions as to cause or threaten to cause one of the situations described in paragraphs 2(a), (b) and (c) above in one or more of the States of the West Africa Party, this State or these States may adopt surveillance or safeguard measures limited to the territory of this State or the States concerned, in accordance with the procedures set out in paragraphs 6 to 11 of this Article.

5. Notwithstanding paragraphs 1 to 3 of this Article, when a product originating in one or more of the States of the EU Party is imported in such increased quantities and under such conditions as to cause or threaten to cause one of the situations described above in paragraphs 2(a), (b) and (c) in one or more States of the West Africa Party, that State or those States may adopt surveillance or safeguard measures restricted to the State or States concerned, in accordance with the procedures set out in paragraphs 6 to 11 of this Article.

6. The safeguard measures referred to in this Article shall remain in force only for such a time as may be necessary to prevent or remedy serious damage or disturbances as defined in paragraphs 2, 4, and 5 above.

7. The safeguard measures referred to in this Article shall be applied for a period not exceeding four (4) years. Where the circumstances warranting the imposition of safeguard measures continue to prevail, such measures may be extended for a further period of four (4) years.

8. Safeguard measures referred to in this Article that exceed one year shall be accompanied by a clear timetable for their gradual removal latest by the end of the specified period..

9. Except in exceptional circumstances subject to approval by the Joint EPA Implementation Committee, no safeguard measure referred to in this Article shall be applied to a product which has previously been subject to such a measure for a period of at least one year from the date of expiry of that measure.

10. The following provision shall apply in the implementation of the the above paragraphs :

- a) Where a Party is of the opinion that one of the circumstances referred to in paragraphs 2, 4 and 5 exists, it shall immediately refer the matter to the Joint EPA Implementation Committee.
- b) The Joint EPA Implementation Committee shall make any necessary recommendation to find a solution for the circumstances which might have arisen. If the Joint EPA Implementation Committee has not made recommendations to address the situation or if a satisfactory solution has not been found within thirty days after the the Committee has been notified, the importing Party may adopt appropriate measures to solve the problem under the terms of this Article.
- c) Before taking any of the measures set out in this Article, or, in the cases referred to in paragraph 11 of this Article, the Party concerned shall as soon as possible, provide the Joint EPA Implementation Committee with all the relevant information required for a thorough consideration of the situation, with a view to seeking a solution acceptable to the Parties concerned.
- d) In selecting safeguard measures under this Article, priority must be given to those measures which enable the problem which has cropped up to be resolved as swiftly and as efficiently as possible with little disruption of the smooth operation of this Agreement ..
- e) Any safeguard measure adopted in accordance with this Article shall be brought to the attention of the Joint EPA Implementation Committee immediately and it shall be the subject

of periodic consultations within that body, in particular, with the view to establishing a timetable for the abolition of the said measure as soon as circumstances allow.

11. Where exceptional circumstances require immediate action, the importing Party concerned, whether it is the EU Party or the West Africa Party, as the case may be, shall take the measures provided for in paragraphs 3, 4 and 5 on a temporary basis without complying with the requirements under paragraph 10. Such action may be taken for a maximum period of 180 days where the measures are taken by the EU Party and 240 days where the measures are taken by the West Africa Party, or where the EU Party's measures are limited to one or more of its outermost regions. The duration of any such provisional measures shall be counted as part of the initial period or of any extension referred to in paragraphs 8 and 9 of this Article. In taking such provisional measures, the interests of all stakeholders shall be taken into consideration.. The importing Party concerned shall inform the other Party and immediately refer the matter to the Joint EPA Implementation Committee for consideration..

12. If an importing Party subjects the importation of a product to an administrative procedure with the aim of providing quick information on trade flow developments likely to cause the problems referred to in this Article, the Party shall, without any further delay, inform the Joint EPA Implementation Committee.

13. The WTO Agreements shall not be invoked to prevent a Party from adopting safeguard measures consistent with the provisions of this Article.

### Article 23

#### **Infant industries clause**

1. The West Africa Party may temporarily suspend further reduction of customs tariff rates or increase customs tariffs to a level not exceeding the rate applied to other WTO Members, where a product originating in the EU Party, following a reduction in the customs tariff, is imported into its territory in such greatly increased quantities and under such conditions as to threaten the establishment of an infant industry, or cause or threaten to cause disruptions to an infant industry producing similar products or directly competitive products.

2. (a) Where the West Africa Party considers that the circumstances described in paragraph 1 exist, it shall immediately refer the matter to the Joint EPA Implementation Committee for consideration.

(b) The Joint EPA Implementation Committee may make any recommendation needed to remedy the circumstances which may have arisen. If no recommendation is made by the Joint EPA Implementation Committee to address the circumstances, or no other satisfactory solution is found within 30 days of the matter being referred to the Joint EPA Implementation Committee, the West Africa Party may adopt the necessary measures to address the situation under the terms of this Article.

(c) Before taking any measure under this Article, the West Africa Party shall supply the Joint EPA Implementation Committee with all the relevant information required for a thorough assessment of the situation, with a view to seeking an acceptable solution.

(d) In selecting measures pursuant to this Article, priority must be given to those which least disturb the operation of this Agreement.

(e) Any measure taken in accordance with this Article shall be notified immediately to the Joint EPA Implementation Committee and shall be the subject of periodic consultations within that body.

(f) In critical circumstances where delay would cause an injury which would be difficult to remedy, the West African Party may take measures provided for in paragraph 1 on a temporary basis without complying with the requirements of sub-paragraphs (a) to (e). Such action may be taken for a

maximum period of 200 days. The duration of any such provisional measure shall be counted as part of the period referred to in paragraph 4 of this Article. The West Africa Party shall inform the EU Party, and it shall immediately refer the matter to the Joint EPA Implementation Committee for consideration..

4. Such measures may be applied for a period of up to 8 years. Application of the measures may be further extended by decision of the Joint Council.

#### Article 24

### **Cooperation**

1. The Parties recognize the importance of cooperation within the framework of trade defence instruments to ensure that their trade transactions are fair and transparent.

2. The Parties agree to cooperate, including through facilitating assistance measures, in accordance with the provisions of Article 59 Part III, notably in the following areas:

- a) development of regulations and institutions to promote trade defence;
- b) capacity development, particularly with regard to the competent administrative authorities of States belonging to the West Africa Party, for enhanced control and use of trade defence instruments provided for under this Agreement .

### **CHAPTER 3**

#### **TECHNICAL BARRIERS TO TRADE AND SANITARY AND PHYTOSANITARY MEASURES**

#### Article 25

### **Objectives**

1. The objectives of this Chapter are to facilitate trade in goods between the Parties and at the same time enhance their capacity to identify, prevent and remove any unnecessary barriers to trade resulting from technical regulations, standards and compliance assessment procedures applied by either Party, whilst maintaining the Parties' capacity to protect plants, animals and public health.

2. When implementing the provisions laid down in this Chapter, each party shall ensure that products imported from the territory of the other Party receive non-discriminatory treatment in relation to the treatment given to similar products of domestic origin and similar products originating in third countries.

3. According to paragraphs 2 and 3 of Article 2 of the WTO SPS Agreement, each Party shall also ensure that the sanitary and phytosanitary measures adopted for protecting the health or safety of persons as well as animal life or health and plant and environmental protection are neither designed to create, nor have the effect of creating unnecessary barriers to trade in goods between the two Parties.

Towards this end, such measures shall not be more trade-restrictive than necessary.

#### Article 26

### **Scope and definitions**

1. The provisions of this Chapter shall apply to technical regulations and standards, to the compliance-assessment procedures set out in the WTO's Agreement on technical barriers to trade (TBTs) and to the WTO's sanitary and phytosanitary measures (hereinafter referred to as SPS measures), in so far as they affect trade between the Parties.

2. For the purposes of this Chapter and except where otherwise indicated, the definitions used in the WTO's TBT and SPS Agreements, in the relevant standards and texts adopted by the Codex Alimentarius Commission, in the International Plant Protection Convention (IPPC) and by the World Organisation for Animal Health (OIE) shall apply, including for any reference to 'products' in this Chapter.

#### Article 27

##### **Mutual obligations**

1. The Parties reaffirm their rights and obligations under the relevant WTO Agreements and, in particular, the Agreements on Sanitary and Phytosanitary Measures (SPS Agreement) and on Technical Barriers to Trade (TBT Agreement). The Parties also reaffirm their rights and obligations stemming from the relevant standards and texts adopted under the International Plant Protection Convention (IPPC) and the Codex Alimentarius Commission and the World Organisation for Animal Health (OIE). The States which are not members of the WTO also confirm their commitment to comply with the obligations set out in the SPS and TBT Agreements with regard to all matters concerning trade relations between the Parties.

2. The Parties reaffirm their commitment to improve public health within their respective territories, in particular by increasing their capacity to identify non-compliant products.

3. In the context of their mutual trade, the Parties shall refrain from exporting or re-exporting products which do not comply with the prescriptions applicable in the legislation of the exporting Party. However, in the case of products subject to SPS measures, the export or re-export thereof shall be permitted if so provided for expressly by the importing Party's authorities. As regards other products, the export thereof shall be permitted unless it is prohibited under the importing Party's legislation.

4. The above commitments, rights and obligations constitute a framework for the Parties' activity under this Chapter.

#### Article 28

##### **Equivalence**

1. The Parties shall accept the other Party's sanitary or phytosanitary measures as equivalent, even if those measures differ from theirs or from those used by other Members trading in the same product, in the event where the exporting Party demonstrates objectively to the importing Party that according to its domestic measures, the appropriate level of sanitary or phytosanitary protection in force within the territory of the importing Party has been achieved. To that end, reasonable access shall be granted to the importing Party on request for the purpose of carrying out inspections, tests and other relevant procedures.

2. The Parties shall, upon request and following mutual acceptance, enter into consultations with the aim of achieving bilateral and multilateral agreements, where necessary, on the recognition of the equivalence of specific sanitary or phytosanitary measures.

#### Article 29

##### **Competent authorities**

1. The authorities of the two Parties responsible for the implementation of the measures set out in this Chapter are referred to in Appendix II.
2. In accordance with Article 6, the Parties shall inform each other promptly of any significant changes to the competent authorities listed in Appendix II of this Chapter. The Joint EPA Implementation Committee shall adopt any necessary amendments to Appendix II of this Chapter.

#### Article 30

##### **Sanitary and phytosanitary zoning**

As regards import conditions, the Parties may, on a case-by-case basis, propose and identify areas with an established sanitary and phytosanitary status, with reference to Article 6 of the SPS Agreement. The Parties shall in particular ensure that their sanitary or phytosanitary measures are suited to the sanitary and phytosanitary characteristics of the product's originating region and destination, be it a whole country, part of a country, or all or parts of several countries.

#### Article 31

##### **Transparency of trade conditions and exchange of information**

1. To ensure that their regulations are compliant, the Parties shall inform one another regarding any change in their legislative and administrative requirements relating to products, in accordance with the notification procedures provided for in the SPS and TBT Agreements.
2. If and when necessary, the Parties shall agree to inform each other as soon as possible in writing concerning measures adopted to prohibit imports of goods with a view to addressing a given problem on (public, animal or plant), health, prevention and the environment and in accordance with the recommendations set out in the SPS Agreement.
3. The Parties agree to exchange information with the aim of cooperating to ensure that their products comply with the relevant technical regulations and standards which must be complied with for each Party to gain access to the other's market.
4. If and when necessary, the Parties shall also directly exchange information concerning other areas they consider to be of potential importance to their trade relations, including matters relating to food safety, the sudden appearance of animal or plant diseases, scientific opinions and other noteworthy events relating to product safety.
5. If and when necessary, the Parties agree to exchange information concerning the epidemiological surveillance of animal diseases. As regards phytosanitary protection, the Parties shall also inform each other on specific request concerning the appearance of pests presenting a known and immediate danger to the other Party.
6. The Parties agree to cooperate with a view to rapidly alerting one another when new regional rules might have an impact on their mutual trade, in accordance with the notification procedures set out in the SPS and TBT agreements.

#### Article 32

##### **Regional integration**

1. In order to facilitate mutual trade, the Parties undertake to harmonise import standards, measures and conditions at regional level to the greatest possible extent.

2. Where import conditions already exist at the time of entry into force of this Agreement, and pending the introduction of harmonised import conditions, the existing import conditions shall be applied by the States of West Africa and the European Union according to the principle whereby a product originating in one of the Parties, legally placed on the market of a State belonging to the other Party, may also be legally placed on the market of any other State belonging to the latter Party without any further restriction or administrative requirement.

3. As regards the measures covered by this Chapter, the West African States shall ensure that the treatment they apply to products from West Africa is not less favourable than the treatment which they apply to similar EU products entering the West Africa region.

### Article 33

#### **Cooperation**

1. The Parties recognize the importance of cooperation in the areas of technical regulation, phytosanitary standards, assessment of compliance and traceability for the purpose of achieving the objectives set out in this Chapter.

2. The Parties agree to cooperate with a view to improving the quality and competitiveness of the West Africa States' priority products and access to the European Union market, including through financial assistance measures in accordance with the provisions of Article 59, Part III, particularly in the following specific areas:

- a) establishment of an appropriate framework for the exchange of information and sharing of expertise between the Parties;
- b) cooperation with international standardisation, metrology and accreditation bodies, including the facilitation of attendance of meetings organized by such bodies by representatives of the West Africa Party;
- c) adoption of technical standards and regulations, compliance assessment procedures and harmonised sanitary and phytosanitary measures at regional level based on relevant international standards;
- d) capacity building of public and private stakeholders, including information and training, with a view to complying with the European Union's standards, regulations and phytosanitary measures and participating in the activities of international standardisation bodies;
- e) development of national capacities for standardising and assessing compliance and traceability of products and access to the European Union market.

#### **Appendix I**

##### **Priority products for export from the West Africa Party to the European Union**

These products shall be identified by the West Africa Party and notified to the Joint EPA Implementation Committee within a maximum period of three months from the date of signing of this Agreement..

#### **Appendix II**

##### **Competent authorities**

###### **A. The European Union's competent authorities**

Monitoring activities shall be shared between the Member States' agencies and the European Commission. The following provisions shall apply in this case:

- concerning exports to the West Africa region, the Member States shall be responsible for monitoring issues and requirements pertaining to production, in particular the performance of mandatory inspections and the issuance of health (or animal welfare) certificates confirming compliance with agreed standards and requirements;
- as regards imports from the West Africa region, the Member States shall be responsible for monitoring compliance with the import conditions laid down by the European Union;
- the European Commission shall be responsible for the general coordination, inspection and auditing of the monitoring systems and for taking the required legislative initiatives to ensure that standards and requirements are applied uniformly on the European domestic market.

These authorities shall be appointed by the European Union Party and the list shall be sent to the Joint EPA Implementation Committee within a maximum period of three months from the date of the signing of this Agreement.

#### **B. The West Africa region's competent authorities**

These authorities shall be appointed by the West Africa Party and the list shall be sent to the Joint EPA Implementation Committee within a maximum period of three months after the date of signing of this Agreement .

### **CHAPTER 4**

#### **OTHER NON-TARIFF BARRIERS**

##### Article 34

#### **Prohibition of quantitative restrictions**

Upon entry into force of this Agreement, all prohibitions or restrictions on imports or exports affecting trade between the two Parties shall be removed, apart from the customs duties, taxes, fees and other charges referred to in Articles 7 and 8 of Chapter 1 on customs duties, whether implemented through quotas, import or export licences or through other measures. No new measure shall be introduced. The provisions of this Article shall be without prejudice to the provisions concerning trade defence instruments and balance of payments.

##### Article 35

#### **National treatment on domestic taxation and regulation**

1. Imported products originating in the other Party shall not be subject, either directly or indirectly, to domestic taxes or any other domestic charges in excess of those applied, directly or indirectly, to similar domestic/national products. Furthermore, the Parties are prohibited from applying any domestic taxes or other domestic charges with the aim of protecting national production.

2. Imported products originating in the other Party shall be accorded treatment no less favourable than the treatment accorded to similar domestic/national products in respect of all laws, regulations and requirements affecting their sale, their offer for sale, purchase, transportation, distribution or their use on the domestic market. The provisions of this paragraph shall not prevent the application of differential domestic transportation charges based exclusively on the economic use of means of transport and not on the origin of the product.

3. Neither Party shall establish or maintain any internal quantitative regulation relating to the mixture, processing or use of products in specified amounts or proportions which requires, directly or indirectly, that any specified amount or proportion of any product which is the subject of the regulation should come from domestic sources. Moreover, neither Party shall otherwise apply internal quantitative regulations so as to protect national production.

4. The provisions of this Article shall not prevent the payment of subsidies exclusively to national producers, including payments to national producers derived from the proceeds of domestic taxes or charges applied in accordance with the provisions of this Article and subsidies effected through governmental purchases of domestic products.

5. The provisions of this Article shall not apply to laws, regulations, procedures or practices governing public procurement.

6. The provisions of this Article shall be without prejudice to the provisions of this Agreement relating to trade defence instruments.

## **CHAPTER 5**

### **TRADE FACILITATION, CUSTOMS COOPERATION AND MUTUAL ADMINISTRATIVE ASSISTANCE**

#### Article 36

#### **Objectives**

1. The Parties acknowledge the importance of customs and trade facilitation matters in the changing global trading environment. The Parties agree to strengthen cooperation in this area with a view to ensuring that the relevant legislation and procedures, as well as the administrative capacity of the competent authorities fulfill the objectives of effective control, promote trade facilitation, and contribute to enhancing development and regional integration of the EPA signatory countries.

2. The Parties acknowledge that the legitimate public policy objectives, including those relating to security and fraud prevention, shall not be compromised under any circumstances.

3. The Parties undertake to ensure the free movement of goods covered by this Agreement in their respective territories.

#### Article 37

#### **Customs cooperation and mutual administrative assistance**

1. To ensure compliance with the provisions of this Chapter and respond effectively to the objectives set out in Article 36, the Parties shall:

- (a) exchange information concerning customs legislation and procedures;
- (b) develop joint initiatives relating to import, export and freight forwarding procedures and initiatives to offer an efficient service to the business community;
- (c) cooperate in the area of automation of customs and other trade procedures and of the establishment of common data exchange standards;
- (d) establish, wherever feasible, common positions in relation to customs in international organisations such as the WTO, the WCO, the UN and UNCTAD;

(e) cooperate in the area of planning and implementation of technical assistance, in particular with a view to facilitating customs reforms and trade in accordance with the provisions of the Agreement; and

(f) encourage cooperation among all the authorities, organisations and other institutions concerned, both within the country and between countries.

2. Notwithstanding paragraph 1, the administrative authorities of the Parties shall provide mutual administrative assistance for customs matters, in accordance with the provisions of Protocol **XXXX** in the Annex.

## Article 38

### **Customs legislation and procedures**

1. The Parties shall ensure and do their possible best to guarantee that their respective trade and customs laws, provisions and procedures are based on:
  - a) international instruments and standards applicable under customs and trade, in particular the substantive elements of the revised Kyoto Convention on the simplification and harmonisation of customs procedures, the WCO Framework of Standards to Secure and Facilitate Global Trade, the WCO data set and the International Convention on the Harmonised Commodity Description and Coding System (HS Convention);
  - b) the use of a single administrative document or an electronic equivalent, with the objective of establishing import and export customs declarations;
  - c) rules which avoid placing excessive and discriminatory burdens on economic operators, but provide safeguards against fraud and additional facilities for operators which are highly consistent with customs law;
  - d) the application of modern customs techniques, including risk assessment, simplified procedures for entry and release of goods, post-release controls, and company audit methods;
  - e) the gradual development of systems, including those based upon information technology, to facilitate the electronic exchange of data between traders, customs administrations and other related agencies;
  - f) a system of binding information under customs, in particular with regard to tariff classification and rules of origin, in accordance with rules laid down in their respective legislation, as long as the customs services have all the information they consider necessary;
  - g) rules on penalties imposed for breaches of customs regulations or procedural requirements which are proportionate and non-discriminatory and whose application does not result in unwarranted delays;
  - h) transparent, non-discriminatory and proportionate rules in respect of the licensing of customs agents. The Parties acknowledge the desirability of removing all requirements concerning the compulsory use of customs agents in the future. The Parties shall address this issue at the level of the Special Committee on Customs and Trade Facilitation.

- i) compliance with the WTO Agreement on Pre-shipment Inspections. The Parties recognise the desirability of moving in the future towards the removal of all requirements relating to pre-shipment or destination inspections and addressing this issue at the level of the Special Committee on Customs and Trade Facilitation.

2. In order to improve working methods and to ensure non-discrimination, transparency and effectiveness, the Parties shall:

- (a) take the necessary measures to reduce, simplify and standardise data and documents required by customs and other related authorities;
- (b) simplify customs requirements and formalities wherever possible, in respect of the rapid release and clearance of goods;
- (c) guarantee effective, prompt, non-discriminatory and easily accessible procedures to grant complainants the right to an effective remedy against administrative actions and other decisions by the customs authorities affecting imports, exports or goods in transit;
- (d) ensure that ethical standards are upheld by the application of measures reflecting the principles of the relevant international agreements and instruments in this area, in particular the amended 2003 Arusha Declaration .

#### Article 39

##### **Facilitation of transit movements**

1. The Parties shall ensure the free transit of goods through their territory on the most suitable transit route. Any restrictions, controls or requirements must be justified by a legitimate public policy objective, and must be non-discriminatory, proportionate and applied uniformly.
2. Without prejudice to the execution of legitimate customs checks, the Parties shall treat goods in transit from the territory of the other Party no less favourably than domestic goods, exports, imports, including their movements.
3. The Parties shall establish customs transit regimes to ensure movement of goods without payment of customs duties and other charges subject to the provision of appropriate guarantees.
4. The Parties shall endeavour to promote and implement regional transit regimes in order to reduce barriers to trade.
5. The Parties shall use international standards and instruments in relation to the transit of goods.
6. The Parties shall ensure cooperation and coordination of all the relevant authorities in their territories in order to facilitate transit traffic and promote cross-border cooperation.

#### Article 40

##### **Relations with the business community**

The Parties agree to:

- a) ensure that all the legislation, procedures, fees and charges are made publicly available by appropriate means, where possible electronically;

- b) encourage cooperation between operators and the relevant administrative authorities through the use of non-arbitrary, publicly accessible procedures such as Memoranda of Understanding based on the ones promulgated by the WCO;
- c) ensure that their respective customs and related requirements, prescriptions and related procedures continue to meet the needs of the business community and are in line with best practices and remain as unrestrictive as possible for trade;
- d) ensure the necessary dialogue in due time and on a regular basis with trade representatives regarding legislative proposals and procedures on customs and trade issues. To this end, appropriate and regular mechanisms for consultation between the administrative authorities and the business community shall be established by each Party;
- e) ensure that sufficient period of time must elapse between the publication and entry into force of all legislation, procedures, new or amended duties or charges. The Parties shall publish administrative information concerning in particular agency requirements, entry procedures, working hours and operational procedures of the customs authorities in ports and at border posts, and also at contact points for the sourcing of information;

#### Article 41

#### **Customs valuation**

The WTO Agreement on Implementation of Article VII of the GATT 1994 governs the application of customs valuation to reciprocal trade between the Parties. The Parties shall cooperate with a view to taking a common approach on issues relating to customs valuation.

#### Article 42

#### **Regional integration in West Africa**

1. The Parties agree to pursue customs reforms, in particular the harmonisation of procedures and regulations for the purpose of facilitating trade in West Africa.
2. From the foregoing, the Parties shall develop close cooperation between all the structures concerned for the implementation of the relevant international customs regulations.

#### Article 43

#### **Cooperation**

1. The Parties recognise the importance of cooperation on customs and trade facilitation for the implementation of this Agreement.
2. Pursuant to paragraph 6 of Annex D to the Decision of the General Council of the WTO of 1 August 2004 (July package) and without prejudice to Article 59 Part III, the Parties agree to create appropriate technical and financial assistance programmes to implement the provisions of this Chapter, in particular with regard to:
  - a) the development of appropriate, simplified legislative and regulatory provisions;
  - b) awareness-raising and information targeted at operators, including training for the staff concerned;

- c) capacity building , modernisation and networking of customs authorities and associated services.

#### Article 44

##### **Transitional measures**

1. The Parties recognise the need for transitional arrangements to ensure the smooth implementation of the provisions of this Chapter.
2. Without prejudice to its commitments to the WTO, the West Africa party shall enjoy a transitional period of five years from the date of entry into force of this Agreement in order to fulfil its obligations under Article 38 (1)(b) and (d) of this Chapter. This timeline may be reviewed depending on the results of the reforms to be carried out by the West Africa region in cooperation with the EU.

#### Article 45

##### **Special Committee on Customs and Trade Facilitation**

1. The Parties hereby establish a Special Committee on Customs and Trade Facilitation, composed of representatives of the Parties.
2. The functions of the Special Committee on Customs and Trade Facilitation shall include the following:
  - a) monitoring the implementation and management of this Chapter, the protocol on rules of origin and the protocol on mutual administrative assistance;
  - b) serving as a forum for agreement and discussion on all customs-related issues, in particular customs regimes and clearance procedures, rules of origin, customs valuation, tariff classification, customs cooperation and mutual administrative assistance;
  - c) developing cooperation for the design, implementation and monitoring of customs regimes and clearance procedures, rules of origin and mutual administrative assistance.
3. The Special Committee on Customs and Trade Facilitation shall meet once a year, on a specified date with an agenda agreed upon in advance by the Parties. The Parties may decide to hold ad hoc meetings of the Committee where necessary.
4. The Special Committee on Customs and Trade Facilitation shall be chaired alternatively by either Party.
5. The Special Committee on Customs and Trade Facilitation shall report to the EPA Implementation Committee.

## **CHAPTER 6**

### **AGRICULTURE, FISHERIES AND FOOD SECURITY**

#### Article 46

## **Objectives**

1. The Parties acknowledge that the agricultural sectors, including cattle-rearing and fisheries account for a significant share of the GDP of the West Africa region, and therefore they play a vital role in addressing food insecurity and providing income and employment to a large proportion of the active population.
2. This Agreement, through its economic and trade impact, together with activities under the EPA Development Programme should contribute to increasing productivity, competitiveness and diversification of production in the agricultural and fisheries sectors. It should facilitate the development of the processing industry and increase trade in agricultural, food and fishery products between the Parties, in line with sustainable management of natural resources.
3. The Parties acknowledge the unexploited agricultural potential of the West Africa region and the need to support the implementation of national and regional agricultural policies within the framework of cooperation policies implemented by both parties under the EPA Development Programme.
4. The Parties acknowledge that the region's fisheries, biological and maritime resources are of great interest to both the EU and the West Africa region and that the real risk of exhausting stocks, in particular through industrial fishing, means that the sustainable management of fish and aquatic resources must be promoted.
5. The Parties also recognise that the fisheries and marine ecosystems of West African States are complex, biologically diverse and fragile and that the exploitation of these resources should be accompanied by effective conservation and management of fishery resources and related ecosystems based on scientific advice and on the precautionary principle as defined by the FAO Code of Conduct on Responsible Fisheries.
6. The Parties further acknowledge the economic and social importance of activities relating to fisheries and the use of living marine resources of the West African States and the need to maximize their contribution to such factors as food security, employment, poverty alleviation, earnings and the social stability of fishing communities.
7. The Parties recognise that ensuring food stability for the population and increasing the means of subsistence in rural areas are vital for poverty alleviation and should tie into the extended framework for sustainable development and the Millennium Development Goals. The Parties therefore agree on the need to work closely together to prevent any disruption of the agricultural and food products markets in West Africa.
8. The EU undertakes to support the countries of West Africa to develop an effective monitoring control and surveillance system for fishing and fisheries as part of its fisheries policy.
9. Furthermore, the Parties also agree on the importance of putting in place policies to promote increased profits for the population of the WA region.
10. The Parties shall take fully into consideration the wide diversity of economic, social and environmental characteristics and needs and the development strategies of West Africa to achieve the objectives set out in this Article.

## Article 47

### **Food security**

Where the implementation of this Agreement causes or threatens to cause difficulties for the West Africa Party or a State in the West Africa region in terms of the availability of or access to products necessary to ensure food security for the West Africa Party or an individual West African State, the West Africa Party or the individual State may take appropriate measures, in line with the procedures set out in Chapter II, Article 22, paragraph 6 to 11 .

## Article 48

### **Cooperation in agriculture and food security**

1. Cooperation in agriculture and food security is covered by Articles 53, 54 and 69 of the Cotonou Agreement. The Parties agree that the provisions of the Cotonou Agreement also relating to this Chapter and to this Agreement shall be implemented in a way which is complementary and mutually reinforcing.

2. To enable countries of West Africa to ensure food security for their populations and to promote viable and sustainable agriculture, the two parties, in the context of the provisions set out in Part III, shall examine all cooperation measures in order to:

- promote the implementation of irrigation and water management programmes;
- promote technical progress, innovation and diversification in agriculture;
- popularise the use of agricultural inputs which are environmentally-friendly;
- develop research with a view to producing improved seeds and their use by the rural population;
- develop an integrated agriculture/cattle-rearing system;
- improve storage and conservation of agricultural products;
- strengthen support/consultancy services by the State for the benefit of private operators;
- strengthen the agricultural industry;
- develop farm to market roads in rural communities so as to improve the collection and movement of agricultural products;
- contribute to improving alert mechanisms to warn of impending crises;
- contribute to the development of regional exchanges to improve the centralisation of information on the availability of food products at the regional level;
- promote contractual agriculture with partners in the EU, for example in the supply of organic products;
- identify new opportunities for the development and export of products for which there is a strong international demand;
- promote reforms of land law so as to increase the legal safety of farmers, thus promoting the development of agricultural efficiency and mobilisation of credit to support private investment in the agricultural sector.

3. The Parties agree that specific food shortages may require the implementation of specific, one-off food assistance programmes for countries facing such situations. However, such programmes must not in any way undermine existing food security policies in the beneficiary States.

4. In order to restrict the possible detrimental effect of imports of food into West Africa, the two parties undertake to favour triangular food assistance mechanisms which promote the sale of local agricultural products.

5. The Parties underscore the importance of the agricultural sector to the economy and food security of the West Africa region , in particular the sensitivity of the sectors which rely on international markets . Each Party shall ensure transparency in their policies and domestic support measures. For this reason, the EU shall send a report periodically, through any appropriate means, to the West Africa Party on the said measures, comprising in particular, the legal basis, the forms of measures and the related amounts.

The Parties can exchange information at the request of a Party on any measure concerning agricultural policy.

6. The EU party shall refrain from using export subsidies for products exported to West Africa.
7. In terms of the implementation of cooperation in the area of agriculture and food security, the Parties shall institute a mechanism for constant dialogue on all the aspects referred to in this Article. The modalities for this dialogue shall be specified by agreement between the Parties.

## **Article 49**

### **Cooperation in the area of fisheries**

1. In order to develop and promote cooperation in fisheries in accordance with the provisions of Article 59 Part III, the Parties undertake to:

- a) collaborate to ensure sustainable management of fishery resources in the WA region and to apply the precautionary principle in determining the sustainable level of catches and defining the conditions for access to fishery resources in order to avoid over-exploitation of stocks or any negative effect on the environment and ecosystem;
- b) promote the improvement in supply capacity and competitiveness of agricultural products. To that end, the EU undertakes to help States in the region to address any non-tariff barriers arising from the implementation of certain sanitary and phytosanitary measures and to develop the regional market in fishery products;
- c) promote investments and access to funding in order to enhance the productivity of the region's fishery businesses;
- d) collaborate in the sustainable management of traditional fishing and in drawing up and implementing an aquaculture development policy in West Africa;
- e) draw up and propose minimum standards for compliance by vessels to ensure effective monitoring, control and surveillance of their activities;
- f) develop coordinated efforts to improve the mechanisms for the prevention, dissuasion and removal of illegal, non-declared or non-regulated fishing and to take appropriate measures to that effect. In this regard, the parties shall take all the necessary measures to halt illegal fishing and prevent its continuation, without prejudice to all other actions they may deem appropriate;
- g) develop a vessel monitoring system (VMS) for the whole of West Africa, and all the West African States will use a compatible VMS;
- h) in addition to a compulsory compatible VMS system, West Africa as a whole, jointly with the EU Party, undertakes to develop other mechanisms to ensure effective monitoring and surveillance;
- i) streamline the procedures and conditions for the traceability and certification of fish products exported from the region to the EU market ;

- j) improve and step up fishing control, surveillance and monitoring measures and mechanisms so as to combat illegal, unregulated and unreported fishing, including the adoption of minimum standards to be complied with by vessels to ensure monitoring, control and surveillance of their activities;
- k) authorise the adoption of appropriate protection measures based on scientific recommendations and after consultation with the various stakeholders, including the EU where sustainable management of fishery and aquatic resources of the region is likely to be undermined.;
- l) step up scientific research on knowledge pertaining to the status of fish stocks in the West African region;
- m) improve and reinforce the information and statistical processing system for the fisheries sector, in particular for migratory species;
- n) step up cooperation in all areas of common interest in the area of fisheries.

## **Article 50**

### **Regional integration**

1. The Parties recognise that greater integration of markets and agricultural and food sectors between the West African States through the gradual elimination of the remaining barriers and the adoption of an appropriate regulatory framework will contribute to the process of regional integration and the achievement of the objectives of this Chapter.

2. Against the backdrop of the provisions set out in Part III and the EPA Development Programme, the Parties shall work to develop and implement regional sectoral policies on agriculture and fisheries and also improve the effectiveness of the regional agricultural and fisheries markets.

## **Article 51**

### **Exchange of information and consultation on agriculture and fisheries issues**

1. The Parties agree to share experiences, information and best practices and to consult with each other regarding all issues relating to the objectives of this Chapter and essential to trade between them.
2. The Parties agree that dialogue would be particularly useful in the following areas:
  - a) exchange of information on agricultural production, consumption and trade and on the respective market developments for agricultural and fishery products;
  - b) exchange of information on agriculture, rural development and fishery policies, laws and regulations;
  - c) discussion of policy and institutional changes needed to underpin the transformation of the agricultural and fishery sectors as well as the formulation and implementation of regional policies on agriculture, food, rural development and fisheries in pursuing regional integration;
  - d) exchange of views on new technologies, policies and quality assurance measures;
  - e) exchange of views for a better understanding and monitoring of EU private standards .

**PART III.**  
**COOPERATION ON THE IMPLEMENTATION OF THE EPA'S DEVELOPMENT**  
**DIMENSION AND ATTAINMENT OF THE EPA OBJECTIVES**

Article 52  
Objectives

1. The Parties undertake, within the framework of this Agreement, to strengthen their cooperation and make a joint commitment for the implementation and attainment of the EPA objectives. The EU Party undertakes to accompany the West Africa Party in implementing an EPA programme which is anchored on development.

2. The Parties' joint commitment is part of a vision for the development of the West Africa Region and contributes to achieving the priorities set out in Part I of this Agreement. In this regard, they recognise that improving access to the EU Market will not be sufficient and beneficial enough to integrate the West Africa Region into the global trade. They therefore agree to implement effective measures which will contribute to establishing a solid, competitive and diversified economic base in the West Africa Region, deepening its economic integration and adapting it to the new context created by this Agreement for the region to benefit from the economic partnership.

Article 53  
Principles

1. The Parties agree to implement a cooperation agenda which aims at boosting West Africa's efforts, through technical and financial assistance, towards the implementation of commitments made under this Agreement. The cooperation also aims at assisting the West Africa Region to remove the constraints hampering the diversification and growth of its production with a view to enhancing intra-regional trade, and deriving benefits from the opening of the European market. They undertake to implement the EPA Development Programme (EPADP) to ensure that the EPA objectives are achieved. To attain this goal, the provisions of the Cotonou Agreement on economic and regional cooperation and integration shall be implemented with a view to maximising the benefits of this Agreement.

2. The Parties agree to ensure consistency between development cooperation and the international commitments of the Parties in terms of sustainable development and regional development strategies;

3. The new trade regime established in this Agreement and the commitments made in development cooperation are complementary as they both contribute to the EPA development dimension. In accordance with Article 2.4 of Part I, the new trade regime is based on reciprocity, the inclusion of the difference in the level of development and on the establishment of a special and differential treatment as well as a gradual and asymmetrical liberalisation for West Africa

4. The Parties further agree that the provisions of this section should not be interpreted as preventing the WA party from continuing with its growth and development objectives and from implementing policies and achieving regional integration.

Article 54  
Financing modalities

1. The European Union undertakes to support development-related actions and projects in this Agreement. The financing by the European Union <sup>2</sup> of development cooperation between West Africa and the European Union in support of the implementation of this Agreement will be carried out within the following context:

- Appropriate rules and procedures provided for in the Cotonou Agreement in particular, the European Development Fund programming procedures ;
- Relevant instruments financed under the European Union General Budget ;
- Other financial mechanisms to be created when the Cotonou Agreement expires.

2. The Member States of the European Union agree collectively to provide support through their respective development policies and instruments, among others, and within the framework of trade assistance and development actions towards regional economic cooperation and implementation of this Agreement, both at national and regional levels , in line with the principles of effectiveness, coordination and complementarity of aid..

3. The EU and its Member States agree to mobilise the necessary financing for the implementation of the EPA development programme. To this end, the parties shall cooperate with a view to finding the additional financial resources, in particular, by facilitating intervention by other donors who are prepared to support efforts by the West Africa party to achieve the objectives set out in this Agreement.

#### Article 55 EPA Development Programme

To assist the region in her independent efforts to develop, the Parties shall take the necessary financial and technical measures to implement the EPA Development Programme in fulfilment of its objectives in accordance with the provisions of Article 54 above, in order to give concrete expression to the development dimension under this Agreement.

#### Article 56 EPA Development Programme Objectives

1. The EPA Development Programme (EPADP) is part of a long term vision relating to achieving the EPA development objectives. Its general objective is to build a competitive regional economy which is harmoniously integrated into the global economy and which stimulates growth and sustainable development. Consistency shall be established between the EPADP and the West Africa Region's Aid-for- Trade Programme as well as between the regional economic and sectoral development strategies for this region.

2. The specific objective for the EPA Development Programme is to enable the West Africa Region to benefit fully from the opportunities provided by the EPA and to deal with the adjustment costs and challenges involved in implementing the Agreement.

3. For this reason, the programme must help to:

- a. bring about swift, sustained and job-creating economic growth which will contribute to sustainable economic development and poverty alleviation in the West Africa Region;
- b. enhance diversification and competitiveness in the economies of the West Africa Region;
- c. boost the production and incomes of the population;
- d. deepen the regional integration process and enhance intra-regional trade;

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<sup>2</sup>Member States not included .

- e. increase the West Africa Region's share of the European Market, among others, by ensuring better access to that market;
- f. promote investment in West Africa, partnerships between the EU and West Africa private sectors and improve the business environment in the West Africa region.

Article 57

**Strategic Axes of the EPADP**

The areas of action covered by the EPA Development Programme are structured around five strategic axes:

- a. diversification and increase in production capacities;
- b. developing intra-regional trade and facilitating access to international markets;
- c. improving and strengthening national and regional trade-related infrastructure;
- d. making indispensable adjustments and taking other trade-related needs into consideration ;
- e. implementing and monitoring/evaluation of the EPA by the West Africa Region.

Article 58

**Modalities for the Implementation of the EPADP**

1. The EPA Development Programme is subject to a protocol which is an integral part of the Agreement. The arrangements for implementing this programme will be set out in detail in the protocol.

2. The EPADP shall be implemented by means of a matrix of activities alongside a financial evaluation, a timetable and implementation monitoring indicators. The activity matrix is the subject of a financial commitment by the EU and its Member States to ensure its achievement in accordance with provisions of Article 54 supra.

3. The implementation of the EPADP shall be evaluated at agreed intervals by the Parties. The Programme shall be revised regularly on the basis of the outcome of the Programme implementation and the impact of the Agreement. To this end, a mechanism based on the jointly defined indicators allows for constant monitoring of programme implementation and impact assessment

4. In connection with the joint evaluation mentioned in paragraph 3 above, the parties shall look for synergy between the rate of implementation of commitments made by the WA region on the one hand, and the progress made in the implementation of the EPADP activities and programmes, on the other, including resource mobilisation for its financing as well as improved competitiveness and production capacity of the region. The parties shall take appropriate measures to deepen this synergy within the framework of the Joint Council; these measures must be consistent with the provisions of this Agreement, in particular Article 54 above.

Article 59

**Support for the Implementation of rules**

The parties shall agree that the implementation of trade-related rules, whose areas of cooperation are spelt out in detail in the different Chapters of this Agreement, is an essential component for the realisation of the goals of this Agreement. The cooperation referred to here shall be implemented in line with the modalities specified in Article 54.

Article 60

## Fiscal adjustment

1. The Parties acknowledge the difficulties that the WA region is bound to face when customs duties are substantially removed or reduced as provided for in this Agreement; thus the parties agree to establish dialogue and cooperation as far as this area is concerned..
2. Against the background of the tariff dismantling schedule adopted as part of this Agreement, the Parties agree to initiate an in-depth dialogue on reform and fiscal adjustment measures to ultimately ensure a balanced budget position for the countries of the West Africa region.
3. The Parties agree to cooperate under the provisions of Article 54, in particular through the facilitation of assistance measures in the following areas:
  - a) a significant contribution to absorbing net fiscal impact in full complementarity with the fiscal reforms;
  - b) support for fiscal reform together with dialogue in this area.

## Article 61 Instruments

1. In connection with the implementation of the provisions of Part III of this Agreement, the Parties agree to set up the following instruments:
  - a) Competitiveness Observatory;
  - b) EPA Regional Fund.
2. The Competitiveness Observatory is part of the monitoring and evaluation mechanism for the implementation of the Agreement. It will provide reference indicators on the competitiveness of sectors of production and monitor developments of the various parameters in respect of this competitiveness. This reference and monitoring are indispensable for assessing the dynamic impact of the Agreement and providing guidelines for establishing priorities for the EPA Development Programme.
3. The parties acknowledge the usefulness of the regional financing mechanisms. The EPA Regional Fund is the key instrument for financing the EPA Development Programme. It is a valuable instrument to be used by the European Union and its Member States in channeling assistance.
4. To this end, the EPA Regional Fund shall be established by and for the region with a view to channeling funding at the regional level, and where necessary, at the national level, for the effective implementation of assistance-related measures specified in this Agreement..
5. The European Union and its Member States shall undertake to channel their assistance through the region's own financing mechanisms or the preferred mechanisms selected by signatory States to the Agreement. These mechanisms shall be put into effect in accordance with the principles of Aid Effectiveness in the Paris Declaration with a view to implementing simplified, effective and expeditious processes. The parties shall agree on any other financing mechanism or modality.
6. The operational modalities of these two instruments set out in paragraph 1 of this Article shall be clarified by the EPA Joint Committee.

## **PART IV DISPUTE AVOIDANCE AND SETTLEMENT**

## CHAPTER 1

### OBJECTIVE AND SCOPE

#### Article 62 Objective

The objective of this Part of the Agreement is to lay down methods to avoid and settle any dispute between the Parties with a view to arriving at a mutually agreed solution.

#### Article 63 Scope

1. This Part shall apply to any dispute concerning the interpretation or application of this Agreement, unless otherwise specified in the Agreement.
2. Notwithstanding paragraph 1 of this Article, the procedure set out in Article 98 of the Cotonou Agreement shall apply in the event of disputes regarding development finance cooperation.

## CHAPTER 2

### DISPUTE AVOIDANCE: CONSULTATIONS AND MEDIATION

#### Article 64 Consultations

1. The Parties shall endeavour to resolve any dispute referred to in Article 63 by entering into consultations in good faith with the aim of reaching a mutually satisfactory solution.
2. Any Party seeking to initiate a dialogue, shall do so by means of a written request to the other Party, and copied to the Joint EPA Implementation Committee, by identifying the disputed measure which is not consistent with the provisions of the Agreement.
3. Consultations shall be held within 40 days of the date of submission of the request. The consultations shall be deemed to be concluded within 60 days of the date of the submission of the request, unless both Parties agree to continue with the consultations. All information exchanged during the consultations shall remain confidential.
4. Consultations on urgent issues, including those on perishable or seasonal goods shall be held within 15 days of the date of submission of the request, and shall be deemed to be concluded within 30 days of the date of submission of the request.
5. At all stages of the avoidance and settlement of disputes, the EU party shall give special attention to the specific circumstances, concerns and interests of the West African States.
6. If consultations are not held within the timelines laid down in paragraph 3 or in paragraph 4 respectively, or if consultations have been concluded and no agreement has been reached on a mutually satisfactory solution, the complaining Party is entitled to seek arbitration.

#### Article 65 Mediation

1. If consultations fail to produce a mutually agreed solution, the Parties may, by agreement, have recourse to a mediator. Unless the Parties agree otherwise, the terms of reference for the mediation shall be the matter referred to in the request for consultations.
2. Unless the Parties to the dispute agree on a mediator within ten (10) days of the date of submission of the request for mediation, the chairperson of the Joint EPA Implementation Committee, or his or her representative, shall select a mediator by lot from the pool of individuals on the list referred to in Article 83 who are not nationals of either Party. The selection shall be made within twenty (20) days of the date of submission of the request for mediation, in the presence of a representative of each Party.
3. The mediator shall convene a meeting of the Parties not later than 30 days after being selected. The mediator shall receive the submissions of each Party not later than fifteen (15) days before the meeting and express an opinion on it not later than forty-five (45) days after being selected.
4. The mediator's opinion may include a recommendation on how to resolve the dispute according to the terms referred to in Article 63. The mediator's opinion shall not be binding.
5. The Parties may agree to amend the time-limits referred to in paragraph 3. The mediator may also decide to amend these time-limits at the request of any of the Parties or on his own initiative, given the specific difficulties experienced by the Party concerned or the complexities of the case.
6. The mediation procedures, in particular all information disclosed and positions taken by the Parties during these proceedings shall remain confidential.

## CHAPTER 3

### DISPUTE SETTLEMENT PROCEDURES

#### Section I – Arbitration procedure

##### Article 66

##### **Initiating the arbitration procedure**

1. Where the Parties have failed to resolve the dispute by recourse to consultations as provided for in Article 64, or by recourse to mediation as provided for in Article 65, the complaining Party may request the establishment of an arbitration panel.
2. The request for the establishment of an arbitration panel shall be made in writing to the Party complained against and the Joint EPA Implementation Committee. The complaining Party shall identify the specific measures at issue, and shall explain how such a situation and/or measures constitute a breach of the provisions of this Agreement.

##### Article 67

##### **Establishment of the arbitration panel**

1. An arbitration panel shall be composed of three arbitrators.
2. Within ten days of the date of the submission of the request for the establishment of an arbitration panel to the Joint EPA Implementation Committee, the Parties shall consult in order to reach an agreement on the composition of the arbitration panel.
3. In the event where the Parties are unable to agree on its composition within the time frame laid down in paragraph 2, either Party may request the chairperson of the Joint EPA Implementation

Committee, or his representative, to select all three members of the arbitration panel by lot from the list drawn up according to Article 83, one of these members should be among the individuals proposed by the complaining Party, one from among the individuals proposed by the Party complained against and the third person from among the individuals selected by the two Parties to act as chairperson. Where the Parties agree on one or more of the members of the arbitration panel, any remaining members shall be selected by the same procedure.

4. The chairperson of the Joint EPA Implementation Committee, or his representative, shall select the arbitrators within five days of receipt of the request referred to in paragraph 3 by either Party and in the presence of a representative of each Party. Each Party shall be informed of the date and time of the selection. Failure on the part of one of the Parties to send their representative following an invitation shall in no way invalidate the selection.

5. The date on which the arbitration panel is established shall be the date on which the three arbitrators are selected.

6. The rules governing coverage of arbitration costs are laid down in the Procedural Regulations.

#### Article 68 Interim panel report

The arbitration panel shall submit to the Parties an interim report containing both the descriptive section and its findings and conclusions, as a general rule not later than 150 days from the date of establishment of the arbitration panel. Any Party may submit written comments to the arbitration panel on specific aspects of its interim report within 30 days of the submission of the interim report.

#### Article 69 Arbitration panel ruling

1. The arbitration panel shall notify the Parties as well as the Joint EPA Implementation Committee on its ruling within 180 days from the date of the establishment of the arbitration panel. Where it considers that this deadline cannot be met, the chairperson of the arbitration panel must notify the Parties and the Joint EPA Implementation Committee in writing, stating the reasons for the delay and the date on which the panel plans to conclude its work. Under no circumstances should the ruling be notified later than 210 days from the date of the establishment of the arbitration panel.

2. In urgent cases, including cases where perishable and seasonal goods are concerned, the arbitration panel shall endeavour to give its ruling within 75 days from the date of its establishment. Under no circumstance should it take longer than 90 days from the date of its establishment. The arbitration panel may give a preliminary ruling within ten days of its establishment on whether it considers the case to be urgent.

3. Either Party may request the arbitration panel to provide a recommendation as to how the Party complained against may have to bring itself into compliance.

### Section II – Compliance

#### Article 70 **Compliance with the arbitration panel ruling**

Each Party shall take all the necessary measures to comply with the arbitration panel ruling, and the Parties shall endeavour to agree on the period of time to comply with the ruling.

Article 71

**Reasonable time limit for compliance**

1. No later than 30 days after the notification of the arbitration panel ruling to the Parties, the Party against whom judgment has been given, notifies the Joint EPA Implementation Committee of the time (reasonable period of time) for compliance.
2. In the event of any disagreement between the Parties on what reasonable period of time means, for the purpose of complying with the arbitration panel ruling, the complaining Party shall, within 20 days of the notification provided for in paragraph 1, request in writing for the arbitration panel to determine the length of the reasonable period of time. Such request shall be notified simultaneously to the other Party and to the Joint EPA Implementation Committee. The arbitration panel shall notify its ruling to the Parties and to the Joint EPA Implementation Committee within 30 days from the date of the submission of the request.
3. The arbitration panel, in determining the length of the reasonable period of time, shall take into consideration the length of time that it will normally take the Party complained against to adopt legislative or administrative measures comparable to those that the Party complained against has decided to take to ensure compliance. Each Party may submit its own estimates of the normal duration for adopting the measures in question. The arbitration panel may also take into consideration constraints which may affect the adoption of the necessary measures by the Party complained against.
4. The reasonable period of time may be extended by mutual agreement between the Parties.

Article 72

**Review of any measures taken to comply with the arbitration panel ruling**

1. The Party against which a decision has been taken shall notify the other Party and the Joint EPA Implementation Committee before the end of the reasonable period of time of any measure that it has taken to comply with the arbitration panel ruling.
2. In the event of any disagreement between the Parties concerning the compatibility of any measure notified under paragraph 1 of the provisions of this Agreement, the complaining Party may request in writing to the arbitration panel to rule on the matter. Such a request shall identify the specific measure at issue and it shall explain how such a measure is incompatible with the provisions of this Agreement. The arbitration panel shall notify its ruling within 90 days of the date of submission of the request. In urgent cases, including those involving perishable and seasonal goods, the arbitration panel shall notify its ruling within 45 days of the date of submission of the request.

Article 73

**Temporary remedies in case of non-compliance**

1. If the Party complained against fails to notify any measure taken to comply with the arbitration panel ruling before the expiry of the reasonable period of time, or if the arbitration panel rules that the measure notified under Article 73(1) is not compatible with that Party's obligations under the provisions referred to in Article 71, the Party against whom a ruling has been made, if so requested by the complaining Party, shall present an offer for temporary compensation.
2. If no agreement on compensation is reached within 30 days of the end of the reasonable period of time or of the arbitration panel's ruling under Article 72, according to which the compliance measures taken are not consistent with the provisions referred to in Article 70, the complaining Party shall be entitled, upon notification to the other Party, to take appropriate measures. In taking such measures the

complaining Party shall endeavour to select measures that least affect the attainment of the objectives of this Agreement. Where necessary, the temporary measure shall take into consideration its impact on the economy of the West African States and shall not affect the provision of development assistance to the West Africa Region.

3. The EU Party shall exercise due restraint in asking for compensation or adopting appropriate measures pursuant to paragraphs 1 or 2 of this Article and shall take into consideration the fact that the West African States are developing countries.

4. The appropriate measures or compensation shall be temporary and shall no longer be applied when the measure viewed as incompatible has been revoked or amended to make it consistent with the provisions of Article 70 or when the Parties agree to bring the dispute settlement procedure to an end.

#### Article 74

##### **Review of compliance measures following the adoption of appropriate measures**

1. The Party who is the subject of the request shall notify the other Party and the Joint EPA Implementation Committee of any measures it has taken to comply with the ruling of the arbitration panel and makes a request that the application of the measures taken by the complaining Party be halted.

2. Where the Parties are unable to reach an agreement on the compatibility of the notified measures with the provisions referred to in this Agreement within 30 days of the date of the submission of the notification, the complaining Party shall request in writing the arbitration panel to rule on the matter. Such a request shall be notified to the other Party and to the Joint EPA Implementation Committee. The arbitration panel ruling shall be notified to the Parties and to the Joint EPA Implementation Committee within 45 days of the date of the submission of the request. If the arbitration panel rules that any measure taken to comply is not in conformity with the provisions of this Agreement, the arbitration panel will determine whether the complaining Party can continue to apply appropriate measures. If the arbitration panel rules that the said measures taken to comply are in conformity with the provisions of this Agreement, the appropriate measures shall be terminated by the complaining Party.

### Section III – Common and transitional provisions

#### Article 75

##### **Mutually agreed solution**

The Parties may reach a mutually agreed solution to a dispute at any time. They shall notify the EPA Committee of any such solution. Upon adoption of the mutually agreed solution, the procedure shall be terminated.

#### Article 76

##### **Rules of procedure**

Rules of procedure shall be adopted by the Joint EPA Implementation Committee within three months of its establishment.

#### Article 77

##### **General and technical Information**

At the request of a Party, or upon its own initiative, the arbitration panel may obtain information from any source, including the Parties involved in the dispute, if it deems it fit for the arbitration panel proceeding. The arbitration panel shall also have the right to seek the relevant opinion of experts as it deems appropriate. Any information obtained in this manner must be disclosed to each of the Parties and submitted for their comments.

Article 78  
**Languages of submissions**

The common working languages used by the Parties during prevention procedures and dispute resolution are English and French.

The parties shall present their written and oral submissions in one of the official languages. If any of the languages is different from English and French, the submissions can be made in one of the latter languages. The French and English versions and the language of the initial submission are equally authentic.

Article 79  
**Rules of interpretation**

Any arbitration panel shall interpret the provisions of this Agreement in accordance with customary rules of interpretation of public international law, including the Vienna Convention on the Law of Treaties. The rulings of the arbitration panel cannot add to or diminish the rights and obligations laid down in this Agreement.

Article 80  
**Arbitration panel rulings**

1. The arbitration panel shall make every effort to take any decision by consensus. Where, nevertheless, a decision cannot be arrived at by consensus, the matter at issue shall be decided by majority vote.

2. The ruling shall set out the findings of fact, the applicability of the relevant provisions of this Agreement and the reasoning behind any findings and conclusions that it makes. The EPA Joint Implementation Committee shall make the arbitration panel rulings publicly available unless it decides otherwise.

3. The ruling of the arbitration panel shall expressly indicate the way and manner flexibility was factored into the process, including special and differential treatment provided for in this Agreement and referred to by one of the Parties.

Article 81

**Parties to the dispute**

1. The EU and its Member States are considered as a single party in the avoidance and dispute settlement arising from the implementation of this Agreement.
2. The ECOWAS, WAEMU and all West African countries including Mauritania are also considered as a single party in dispute avoidance and settlement arising from the implementation of this Agreement.
3. Notwithstanding the provisions of paragraphs 1 and 2 of this Article, the measures taken in compliance with the decision of the special arbitration panel are specifically targeted at the State or States whose measures are deemed to have contravened this Agreement. As a consequence, no State whatsoever can be the subject of any manner of sanction in the event where the non implementation of an obligation arising from this Agreement is not attributable to it.

Article 82

**Transitional provision**

In view of the peculiar situation of West Africa , the Parties accept that during a transitional period of ten (10) years from the entry into force of this Agreement, the EU and its Member States, when lodging complaints, will use only consultation and mediation as a means of settling disputes,

CHAPTER 4

**GENERAL PROVISIONS**

Article 83

**List of arbitrators**

1. The EPA Committee shall, not later than three months after the provisional application of this Agreement, establish a list of thirty (30) arbitrators. Each of the Parties shall select one-third of the arbitrators. The two Parties shall also agree on the choice of the final third of the arbitrators who are not nationals of either Party and who shall act as chairperson to the arbitration panel. The Joint EPA Implementation Committee will ensure that the list is always complete and that the various special interests in the areas of international trade and in the trade and economic partnership between the two regions are represented.
2. Arbitrators shall have specialised knowledge or experience of law and international trade. They shall be independent, serve in their individual capacities and not take instructions from any organisation or government, or be affiliated with the government of any of the Parties, and shall comply with the Code of Conduct annexed to the Rules of Procedures.

Article 84

**Links with the WTO obligations**

1. Arbitration bodies set up under this Agreement shall not adjudicate disputes concerning each Party's rights and obligations under the Agreement establishing the World Trade Organisation (WTO).
2. Recourse to the dispute settlement provisions of this Agreement shall be without prejudice to any action in the WTO framework, including dispute settlement action. However, where a Party has, with

regard to a particular measure, instituted a dispute settlement proceeding, either under Article 66(1) of this Title or under the Agreement establishing the WTO, it may not institute a dispute settlement proceeding regarding the same measure in the other forum until the first proceeding has ended. For purposes of this paragraph, dispute settlement proceedings under the Agreement establishing the WTO are deemed to be initiated at the request of a Party for the establishment of a panel under Article 6 of the WTO Memorandum of Understanding on Rules and Procedures Governing the Settlement of Disputes.

3. Nothing in this Agreement shall preclude a Party from implementing the suspension of obligations authorised by the WTO Dispute Settlement Body.

Article 85  
**Time-limits**

1. All time- limits for debarment laid down in this Title, including the limits for the arbitration panels to notify their rulings, shall be counted in calendar days from the day following the act or fact to which they refer. When the last day is not a working day, the end of the time-limit shall be deferred until the next working day.

2. Any time limit referred to in this part of the Agreement may be extended by mutual agreement of the Parties.

**Article 86**  
**Cooperation**

The Parties shall agree to cooperate in line with Article 59 of Part IV, in particular in the area of legal assistance with a view to helping West Africa seek remedy under the mechanism for dispute settlement provided for in this Agreement.

**PART V. GENERAL EXCEPTIONS**

Article 87

**General exception clause**

1. Subject to the requirement that such measures are not applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between the Parties where like conditions prevail, or a disguised restriction on trade in goods, services or establishment, nothing in this Agreement may be construed as preventing the adoption or enforcement by the Parties of measures which:

- (a) are necessary to protect public security and public morals or to maintain public order;
- (b) are necessary to protect human, animal or plant life or health;
- (c) are necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement including those relating to:
  - (i) the prevention of deceptive or fraudulent practices and means to deal with the effects of a default on contract payments;
  - (ii) the protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts;
  - (iii) safety;
  - (iv) customs enforcement; or

- (v) the protection of intellectual property rights;
  - (d) the import or export of gold or silver;
  - (e) the protection of national treasures of artistic, historic or archaeological value;
  - (f) the conservation of exhaustible natural resources if such measures are made effective in conjunction with restrictions on domestic production or consumption of goods, domestic supply or consumption of services and on domestic investors;
  - (g) the products of prison labour;
  - (h) matters that are essential to the acquisition or distribution of products in general or local short supply, provided that such measures are consistent with the principle that all parties are entitled to an equitable share of the international supply of such products.
- 2.. Any measures mentioned above that are inconsistent with the other provisions of the Agreement shall be discontinued as soon as the conditions giving rise to them have ceased to exist.

## Article 88

### **Security exceptions**

1. Nothing in this Agreement shall be construed:
- (a) to require the Parties to furnish any information, the disclosure of which it considers contrary to their essential security interests;
  - (b) to prevent the Parties from taking any action deemed necessary for the protection of their essential security interests:
    - (i) relating to fissile or fissionable materials or to materials from which they are derived;
    - (ii) relating to economic activities carried out directly or indirectly for the purpose of supplying a military establishment;
    - (iii) connected with the production of or trade in arms, munitions and war materials;
    - (iv) relating to government procurement indispensable for national security or for national defence purposes; or
    - (v) taken in time of war or other emergency in international relations;
  - (c) to prevent the Parties from taking any action in pursuance of their obligations under the United Nations Charter or other Agreements they accepted in order to maintain international peace and security.
2. The Joint WA-EU EPA Implementation Committee shall be informed to the fullest extent possible of the measures taken under paragraphs 1(b) and (c) and of the date of their termination.

## Article 89

### **Balance of payments difficulties**

1. Where a Party is in serious balance of payments and external financial difficulties, or under threat thereof, it may adopt or maintain restrictive measures with regard to trade in goods and in services and with regard to payments and capital movements, including those related to direct investment.
2. The Parties shall, as much as possible, endeavour to avoid applying the restrictive measures referred to under paragraph 1.
3. Any restrictive measure adopted or maintained under this Article shall be non-discriminatory and of limited duration and shall not go beyond what is necessary to remedy the balance of payments and external financial situation. They shall be in accordance with the conditions established in the WTO Agreements and consistent with the Articles of Agreement of the International Monetary Fund, as applicable.
4. Any Party that maintains, has adopted or has amended restrictive measures shall notify the other Parties thereof without delay and shall submit, as quickly as possible, a schedule for their removal.
5. Consultations shall be held promptly within the Joint EPA Implementation Committee. Such consultations shall assess the balance of payments situation of the Party or Parties concerned and the restrictions adopted or maintained under this Article, taking into account, inter alia, such factors as:
  - a) the nature and extent of the balance of payments and the external financial difficulties;
  - b) the external economic and trading environment;
  - c) alternative corrective measures which may be available.
6. The consultations shall examine the compliance of any restrictive measures with paragraphs 3 and 4. All findings of statistical and other facts presented by the International Monetary Fund relating to foreign exchange, monetary reserves and balance of payments shall be accepted and conclusions shall be based on the assessment by the Fund of the balance of payments and the external financial situation of the Party concerned.

#### Article 90

#### **Taxation**

1. Nothing in this Agreement or in any arrangement or adjustment adopted under this Agreement shall be construed as preventing the Parties from distinguishing, in the application of the relevant provisions of their fiscal legislation, between taxpayers who are not in the same circumstances, in particular with regard to their place of residence or the place where their capital is invested.
2. Nothing in this Agreement or in any arrangement or adjustment adopted under this Agreement shall be construed as preventing the adoption or enforcement of any measure aimed at preventing the avoidance or evasion of taxes pursuant to the tax provisions of agreements to avoid double taxation or to other tax arrangements or domestic fiscal legislation.
3. Nothing in this Agreement shall affect the rights and obligations of the Parties under any tax convention. In the event of any inconsistency between this Agreement and any such convention, that convention shall prevail to the extent of the inconsistency.

### **PART VI INSTITUTIONAL PROVISIONS**

#### Article 91

#### **Joint bodies of the EPA**

An institutional framework for the supervision and implementation of the Economic Partnership Agreement between the WA region and the EU is established and includes the following bodies:

- the Joint WA-EU EPA Council;
- ~~the Joint WA-EU EPA Implementation Committee;~~
- the Joint WA-EU Parliamentary Committee;
- the WA-EU Joint Consultative Committee.

#### Article 92

##### **Joint West Africa-EU EPA Council**

1. The Joint WA-EU EPA Council shall supervise the implementation of this Agreement. It shall meet at ministerial level.  
  
2. Without prejudice to the functions of the Council of Ministers as defined in Article 15 of the Cotonou Agreement, the Joint West Africa-EU EPA Council shall generally be responsible for the operation and implementation of this Agreement and shall monitor the fulfilment of its objectives. It shall also examine any major issue arising within the framework of this Agreement, as well as any other bilateral, multilateral or international question of common interest and affecting this economic and trade partnership between the Parties.
3. The Joint WA-EU EPA Council shall also examine proposals and recommendations from the Parties for the review of this Agreement in accordance with procedures laid down in Article 112.
4. The Joint WA-EU EPA Council shall meet once in two years. It may also meet extraordinarily whenever circumstances so require.

#### Article 93

##### **Composition and rules of procedure**

1. The Joint West Africa-EU EPA Council shall be composed, on the one hand, of members of the Council of the European Union and members of the European Commission and, on the other hand, of members of the WA-EU EPA Ministerial Monitoring Committee and the Presidents of the ECOWAS and WAEMU Commissions.
2. The Joint West Africa-EU EPA Council shall adopt its own rules of procedure.
3. The Joint West Africa-EU EPA Council shall be chaired in turn by a representative of the EU Party and by a representative of the WA Party, in accordance with the provisions laid down in its rules of procedure.
4. The Joint West Africa-EU EPA Council shall provide periodic reports on the operation of this Agreement to the Council of Ministers established in accordance with Article 15 of the Cotonou Agreement.
5. Members of the Joint West Africa-EU Council may arrange to be represented, in accordance with the conditions laid down in its own rules of procedure.

#### Article 94

##### **Decision-making powers and procedures**

1. In order to attain the objectives of this Agreement, the Joint West Africa-EU EPA Council shall have the power to take decisions in respect of all matters covered by the Agreement.
2. The decisions taken shall be binding on the Parties, which shall take all the measures necessary to implement them in accordance with each Party's internal rules.
3. The Joint West Africa-EU EPA Council may also make appropriate recommendations.
4. The Joint West Africa-EU EPA Council shall adopt decisions and recommendations by mutual agreement between the Parties.

## Article 95

### **Joint EPA Implementation Committee**

1. The Joint West Africa-EU EPA Council shall be assisted in the performance of its duties by the Joint EPA Implementation Committee made up of senior officials or their representatives duly appointed by the Parties. Either Party may bring to the attention of the Joint EPA Implementation Committee any issue related to the application of the Agreement or the attainment of its objectives.
2. The Joint EPA Council shall establish and adopt the rules of procedure of the Joint EPA Implementation Committee. The Joint EPA Implementation Committee shall be chaired alternately by a representative of each of the Parties for a period of one year.

It shall present an annual report to the Joint West Africa-EU EPA Council.

3. The Joint EPA Implementation Committee shall have, in particular, the following functions:
  - (a) in the area of trade:
    - (i) to ensure that the provisions of the Agreement are implemented and properly applied, and to discuss and recommend cooperation priorities in this regard;
    - (ii) to oversee the further elaboration of the provisions of this Agreement and evaluate the results obtained in its application;
    - (iii) to undertake action to avoid disputes and to settle disputes that may arise regarding the interpretation or application of the Agreement, in accordance with the provisions of Part IV.;
    - (iv) to assist the Joint West Africa-EU Council in the performance of its functions;
    - (v) to monitor the development of regional integration and of economic and trade relations between the Parties;
    - (vi) to monitor and assess the impact of the implementation of this Agreement on the sustainable development of the Parties;
    - (vii) to discuss and undertake actions that may facilitate trade, investment and business opportunities between the Parties; and
    - (viii) to discuss any matters pertaining to this Agreement and any issue liable to affect the attainment of its objectives;
  - (b) in the area of development:

- (i) to assist the Joint West Africa-EC EPA Council in the performance of its functions regarding development cooperation related to matters falling under this Agreement;
  - (ii) to monitor the implementation of the cooperation provisions laid down in this Agreement and to coordinate such action with third party donors;
  - (iii) to make recommendations on trade-related cooperation between the Parties;
  - (iv) to keep under periodic review the cooperation priorities set out in this Agreement, and to make recommendations on the inclusion of new priorities, as appropriate; and
  - (v) to review and discuss cooperation issues pertaining to regional integration and implementation of this Agreement.
4. In the performance of its functions, the Joint EPA Implementation Committee may:
- (a) set up and oversee any special committees or bodies to deal with matters falling within its competence, and determine their composition, duties, and rules of procedure;
  - (b) consider any issues under this Agreement and take appropriate action in the exercise of its functions; and
  - (c) take decisions or make recommendations in the cases provided for in this Agreement or where such implementing power has been delegated to it by the Joint West Africa-EU Council. In such cases the Committee shall take decisions or make recommendations by agreement of the Parties.
5. The Joint EPA Implementation Committee shall meet once a year for an overall review of the implementation of this Agreement, on a date and with an agenda agreed in advance by the Parties, in each of the regions alternatively. The Committee may, when necessary, hold extraordinary sessions to perform the functions provided for in paragraph 3(a) and (b).

#### Article 96

#### **Joint West Africa-EU Parliamentary Committee**

1. The Joint West Africa-EU Parliamentary Committee is a framework for consultation and dialogue between the members of the European Parliament and the members of the West African Regional Parliaments. It shall meet at intervals which it shall itself determine. It shall cooperate with the Joint Parliamentary Assembly provided for in Article 17 of the Cotonou Agreement.
2. The Joint West Africa-EU Parliamentary Committee shall consist of members of the European Parliament, on the one hand, and of members of the West African Regional Parliaments on the other hand. Representatives of the Parties may attend the meetings of the Joint West Africa-EU Parliamentary Committee.
3. The Joint West Africa-EU EPA Parliamentary Committee shall establish rules of procedure and inform the Joint West Africa-EU EPA Council thereof.
4. The Joint West Africa-EU EPA Parliamentary Committee shall be chaired in turn by a member of the European Parliament and a member of the West African Regional Parliaments, in accordance with the provisions laid down in its rules of procedure.
5. The West Africa-EU EPA Parliamentary Committee may request of the Joint West Africa-EU EPA Council relevant information regarding the implementation of this Agreement, and the Joint West Africa-EU Council shall supply the Committee with the requested information.

6. The Joint West Africa-EU EPA Parliamentary Committee shall be kept informed of the decisions and recommendations of the Joint West Africa-EU EPA Council.

7. The Joint West Africa-EU EPA Parliamentary Committee may make recommendations to the Joint West Africa-EU EPA Council and to the Joint EPA Implementation Committee.

#### Article 97

##### **Joint West Africa-EU Consultative Committee**

1. The Joint Consultative Committee shall have the task of assisting the Joint West Africa-EU EPA Council to promote dialogue and cooperation between the economic and social partners of both Parties. Such dialogue and cooperation shall encompass all economic, social and environmental aspects of the relations between the Parties, as they arise in the context of implementation of this Agreement.

2. Participation in the Joint West Africa-EU Consultative Committee shall be decided by the Joint West Africa-EU EPA Council, with a view to ensuring a broad representation of all interested parties.

3. The Joint West Africa-EU Consultative Committee shall carry out its activities on the basis of consultation with the Joint West Africa-EU EPA Council or on its own initiative and make recommendations to the Joint West Africa-EU EPA Council. The representatives of the Parties shall attend the meetings of the Joint Consultative Committee.

4. The Joint West Africa-EU Consultative Committee shall adopt its rules of procedure in agreement with the Joint West Africa-EU EPA Council. It shall meet at intervals which it shall itself determine.

5. The West Africa-EU EPA Consultative Council may make recommendations to the Joint West Africa-EU EPA Council and to the Joint EPA Implementation Committee.

#### Article 98

##### **Financing for the operation of the institutional mechanism**

The parties shall cooperate with a view to financing the bodies mentioned in Article 91 in accordance with Article 59 of this Agreement.

The modalities for financing shall be determined in consultation with the Joint EPA Council.

## **PART VII**

### **FINAL PROVISIONS**

#### Article 99

##### **Definition of the Parties and fulfilment of obligations**

1. The Contracting Parties to this Agreement are the EU Party and the West Africa Party.

2. The EU Party consists of the European Union and its Member States or the European Union and its Member States, within their respective areas of competence as derived from the Treaty establishing the European Union and the Treaty on the operation of the European Union.

3. The West Africa Party, also referred to as the West Africa Region, consists of the Economic Community of West African States (ECOWAS), the West African Economic and Monetary Union (WAEMU), and their Member States within their respective areas of competence as derived from the ECOWAS and WAEMU Treaties, and Mauritania.

4. The Parties shall adopt any general or specific measures required for them to fulfil their obligations and shall ensure that the objectives laid down in this Agreement are achieved.

#### Article 100

##### **Contact points and exchange of information**

1. In order to facilitate communication and ensure the effective implementation of this Agreement, each Party shall designate a contact point upon this Agreement's entry into force. The designation of contact points is without prejudice to the specific designation of competent authorities under specific provisions of this Agreement.

2. At the request of either Party, the contact point of the other Party shall indicate the office or official responsible for any matter pertaining to the implementation of the Agreement and provide the support necessary to facilitate communication with the requesting Party.

3. At the request of the other Party, and to the extent legally possible, each Party through its contact point shall provide information and reply promptly to any question from the other Party relating to an actual or proposed measure that might affect trade between the Parties.

#### Article 101

##### **Transparency**

1. Each Party shall ensure that any laws, regulations, procedures and administrative rulings of general application as well as any international commitments relating to any trade matter covered by this Agreement are promptly published or made publicly available and brought to the attention of the other Party.

2. Without prejudice to the specific transparency provisions in this Agreement, the information referred to under this Article shall be considered to have been provided when the information has been made available by appropriate notification to the WTO or when the information has been made available on the official, public and fee-free website of the Party concerned.

#### Article 102

##### **Confidentiality**

Nothing in this Agreement shall require any Party to disclose confidential information, the disclosure of which would impede law enforcement, or otherwise be contrary to the public interest, or which would prejudice legitimate commercial interests of particular enterprises, public or private, except to the extent that it may be necessary to be disclosed in the context of a dispute settlement proceeding under Part IV of this Agreement. Where such disclosure is considered necessary by a panel established under Article 67, the panel shall ensure that confidentiality is fully protected.

Article 103

**Regional preference**

1. Nothing in this Agreement shall oblige a Party to extend to the other Party of this Agreement any treatment which is more favourable than that applied within each of the Parties as part of its respective regional integration process.
2. Any more favourable treatment or advantage that may be granted under this Agreement by any West African State or one of its economic communities to the European Union or one of its Member States and vice versa shall immediately and unconditionally also be enjoyed by each signatory of this Agreement.
3. The provisions of this Agreement cannot be construed as requiring the European Community or the WA Party to reciprocally grant each other preferential treatment which would be applicable owing to the European Union or the Economic Community of West African States and Mauritania being party to a regional economic integration agreement on the date of entry into force of this Agreement.

Article 104

**Outermost regions of the European Union**

1. Taking account of the geographical proximity of the outermost regions of the European Union and the West Africa Party, and in order to strengthen economic and social links between these regions and the West Africa Party, the Parties shall endeavour to specifically facilitate cooperation in all the areas covered by this Agreement and facilitate trade in goods and services, promote investments and encourage transport and communication links between the outermost regions and the West Africa Party.
2. The objectives set out in paragraph 1 shall be pursued, wherever possible, by fostering the joint participation of the West African States and the outermost regions in the framework and specific programmes of the European Union in the areas covered by this Agreement.
3. The EU Party shall endeavour to ensure coordination between the different financial instruments of the European Union's cohesion and development policies in order to foster cooperation between the West Africa Party and the outermost regions of the European Union in the areas covered by this Agreement.
4. Nothing in this Agreement shall prevent the EU Party from applying existing measures aimed at addressing the structural social and economic situation of the outermost regions pursuant to Article 349 of the Treaty establishing the European Union.

Article 105

**Relationships with other agreements**

- 1.. Nothing in this Agreement shall be construed as preventing the adoption by the EU Party or by one of the West African States of any measures, deemed appropriate and provided for under this Agreement in accordance with the relevant provisions of of the Cotonou Agreement.

Article 106

**Rendez-vous Clause**

1. The Parties shall agree to pursue the negotiations to reach a full regional Agreement.
2. Without prejudice to the contents of the thematic areas mentioned below and without prejudging the outcome of these negotiations, the Parties shall agree to discuss the following issues on :
  - services,
  - Intellectual property and innovation, including traditional knowledge and genetic resources ,
  - current payments and capital movements,
  - personal data protection,
  - investissements,
  - competition,
  - consumer protection,
  - sustainable development,
  - public procurement.
3. For the purposes laid down in paragraph 1 of this Article, within six (6) months after the conclusion of this Agreement, the Parties shall agree on a roadmap specifying the timetable and modalities for the said negotiations.

Article 107

**Ratification and Entry into Force**

1. This Agreement shall be ratified or approved by the signatory Parties in accordance with their respective constitutional rules and procedures.
2. This Agreement shall enter into force on the first day of the second month following that in which the WA Party and the EU Party have notified each other of the completion of the procedures required for this purpose.
3. Pending entry into force of the Agreement, West Africa and the European Union shall agree, by exchange of correspondence, to provisionally apply the Agreement, in full or in part. Provisional application shall be notified to the depositary. The Agreement shall be applied provisionally one month after receipt of such notification of provisional application.
4. Notwithstanding paragraph 3, West Africa and the European Union may take steps to apply the Agreement, in full or in part, before provisional application, to the extent feasible.

Article 108

**Depository authorities**

The instruments of ratification or approval shall be deposited with the Commission of the Economic Community of West African States as regards the EU Party and its Member States, and with the General Secretariat of the Council of the European Union as regards the West African States, ECOWAS and WAEMU. The ECOWAS Commission and the General Secretariat of the Council of the European Union shall immediately notify the signatories thereof.

Article 109

**Duration**

1. This Agreement shall be valid indefinitely.
2. Either Party may give written notice to the other of its intention to denounce the Agreement.
3. Denunciation shall take effect six months after notification.

Article 110

**Territorial application**

This Agreement shall apply, on the one hand, to the territories in which the Treaty establishing the European Union is applied and under the conditions laid down in that Treaty, and, on the other, to the territories of the West African States. References in this Agreement to 'territory' shall be understood in this sense.

Article 111

**Review clause**

1. The Parties shall agree to evaluate or review this Agreement, as appropriate, every five (5) years.

No later than twelve months before the expiry of each five-year period the Parties shall notify each other of the provisions of the Agreement of which they are requesting a review for the purposes of a possible amendment. Ten months before the expiry of this five-year period, the Parties shall enter into negotiations with a view to examining any possible amendments to the Agreement. This review shall take place in the light of the experience gained by the Parties during its implementation.

2. Notwithstanding this time limit, the Parties may consider revising this Agreement if needed, particularly when the Cotonou Agreement expires.

3. If one Party requests the review of any provisions of this Agreement, the other Party shall have a period of two months in which to request the extension of the review to other provisions related to those which were the subject of the initial request.

Article 112

**Accession of new Member States to the European Union**

1. The Joint West Africa-EU EPA Council shall be advised of any request made by a third State to become a member of the European Union (EU). During the negotiations between the EU and the Applicant State, the EU Party shall provide the West Africa Party with any relevant information and it in turn shall convey its concerns to the EU Party so that they can be taken fully into account. The West Africa Party shall be notified by the EU Party of any accession to the EU.

2. Any new Member State of the EU shall accede to this Agreement from the date of its accession to the EU by means of a clause to that effect in the act of accession. If the act of accession to the EU does not provide for such automatic accession of the EU Member State to this Agreement, the EU Member State concerned shall accede by depositing an act of accession with the General Secretariat of the Council of the European Union, which shall send certified copies to the West Africa Party.

3. The Parties shall review the effects of the accession of new EU Member States on this Agreement. The Joint West Africa-EU EPA Council may decide on any transitional or amending measures that might be necessary.

#### Article 113

#### **Authentic texts**

This Agreement is drawn up in duplicate in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each of these texts being equally authentic.

#### Article 114

#### **Annexes**

The Annexes and Protocols to this Agreement shall form an integral part thereof.

#### **ANNEXES**

- ✓ Protocol on rules of origin
- ✓ Protocol on the EPA Development Programme
- ✓ Protocol on the tariff dismantling schedule
- ✓ Protocol on the “sensitive” products to be excluded from liberalisation]