REVISED TREATY OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS)

ARTICLE 49

EXCEPTIONS AND SAFEGUARD CLAUSES

1. In the event of serious disturbances occurring in the economy of a Member State following the application of the provisions of this Chapter, the Member State concerned shall, after informing the Executive Secretary and the other Member States, take the necessary safeguard measures pending the approval of the Council.

2. These measures shall remain in force for a maximum period of one year. They may not be extended beyond that period except with the approval of the Council.

3. The Council shall examine the method of application of these measures while they remain in force.

ECONOMIC PARTNERSHIP AGREEMENT BETWEEN THE WEST AFRICAN STATES, THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES (ECOWAS) AND THE WEST AFRICAN ECONOMIC AND MONETARY UNION (UEMOA), OF THE ONE PART, AND THE EUROPEAN UNION AND ITS MEMBER STATES, OF THE OTHER PART

CHAPTER 2

TRADE DEFENCE INSTRUMENTS

Objectives

1. The objectives of this Chapter are to lay down the conditions in which the two Parties may take trade defence measures while at the same time working on the development of trade in goods between them, by way of derogation from the provisions of Articles 9, 10 and 34 of this Agreement.

2. The Parties shall ensure that the measures taken under the provisions of this Chapter are no more than is necessary to prevent or rectify the situations described there.

ARTICLE 21

Multilateral Safeguard Measures

1. Subject to the provisions of this Article, this Agreement shall not prevent either of the Parties from adopting exceptional measures for a limited period in accordance with Article XIX of the GATT 1994, the Agreement on Safeguards which figures in Annex

1A to the Agreement establishing the WTO (hereinafter the “WTO Agreement on Safeguards”), or Article 5 of the Agreement on Agriculture which figures in Annex 1A to the Agreement establishing the WTO (hereinafter the “WTO Agreement on Agriculture”).

2. For the purposes of applying this Article, origin shall be determined according to non-preferential rules of origin of the Parties on the basis of the WTO Agreement on Rules of Origin.

3. Without prejudice to the provisions of paragraph 1 of this Article, and in the light of the overall development objectives of this Agreement and the small size of the economies of the West African States, the European Union Party shall exclude imports from the West African States Party from any measures taken pursuant to Article XIX of the GATT of 1994, the WTO Agreement on Safeguards and Article 5 of the WTO Agreement on Agriculture.

4. The provisions of paragraph 3 of this Article shall apply for a period of five (5) years, beginning with the date of entry into force of this Agreement. At the latest one hundred and twenty (120) days before the end of this period, the Joint Council of the EPA shall re-examine the implementation of these provisions in light of the development needs of the States of the West African region in order to determine whether their period of application should be extended.

5. The provisions of this Article shall not be subject to the dispute settlement provisions of this Agreement.

ARTICLE 22

Bilateral Safeguard Measures

1. Subject to the provisions of this Article, either of the Parties may take safeguard measures for a limited period that derogate from the provisions of Articles 9 and 10 of this Agreement.

2. The safeguard measures referred to in paragraph 1 of this Article may be taken 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 of like or directly competitive products in the territory of the importing Party;

(b) disruptions in a sector of the economy, particularly where these disruptions produce major social problems or difficulties that could bring about serious deterioration in the economic situation of the importing Party; or

(c) disruption in the markets of like or directly competitive agricultural products1 or in the mechanisms regulating those markets.

3. The safeguard measures referred to in this Article shall not exceed what is strictly necessary to prevent or remedy serious injury or disruptions as defined in paragraphs 2, 4 and 5 of this Article. These safeguard measures of the importing Party may consist only of one or more of the following:

(a) the suspension of any further reduction in the customs duty on imports applicable for the product concerned, as provided for by this Agreement;

(b) an increase in the customs duty on the product concerned up to a level that does not exceed the customs duty applied to other WTO Members;

(c) the introduction of tariff quotas on the product concerned.

4. Notwithstanding paragraphs 1 to 3 of this Article, when a product originating in one or more States of the West Africa Party is imported in such increased quantities and under such conditions as to cause or threaten to cause one of the situations described in points (a), (b) and (c) of paragraph 2 of this Article in one or more outermost regions of the European Union Party, the European Union Party may take surveillance or safeguard measures, limited to the region(s) concerned in accordance with the procedures defined 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 States of the European Union Party is imported in such increased quantities and under such conditions as to cause or threaten to cause one of the situations described in points (a), (b) and (c) of paragraph 2 of this Article in one or more States of the West African region Party, they may take surveillance or safeguard measures, limited to their territory in accordance with the procedures defined in paragraphs 6 to 11 of this Article.

6. The safeguard measures referred to in this Article shall be maintained only for the period necessary to prevent or resolve serious damage or disruptions such as those described in paragraphs 2, 4 and 5 of this Article.

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 exist, such measures may be extended for a further period of four (4) years.

8. The safeguard measures referred to in this Article that exceed one (1) year shall have a clear timetable for being phased out by the end of the set period, at the latest.