



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

Abuja, 17 – 18 July, 2013

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

THE HIGH CONTRACTING PARTIES,

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

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

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

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

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

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

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

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



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

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

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

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

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

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

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

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

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

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

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

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

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

HAVING obtained the opinion of the Community Parliament;

HAVE AGREED AS FOLLOWS:

CHAPTER I: DEFINITIONS, OBJECTIVE AND SCOPE OF APPLICATION

Article 1: Definitions

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

“**Act**” means this Supplementary Act / SA /18/07/13.

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

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

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

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

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

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

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

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



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

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

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

“Journal” means the Official Journal of the Community;

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

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

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

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

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

“Treaty” means the Revised Treaty of the Community of 24th July 1993 and its subsequent amendments.

Article 2: Objective and scope of application

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



- 2) This Supplementary Act shall apply, without limitation, to all persons carrying out official border control, facilitation and management functions and those who access a joint border post for purposes of accessing the services therein provided or providing commercial or other services therein. It specifically covers:
- a) The establishment and objectives of joint border posts and the configuration of the common control zone from which border controls are effected.
 - b) The legal principles to be applied in the conduct of joint border controls and functions by officers and forwarding agents of adjoining Member States and outlines the principles governing the exercise of dual jurisdiction by the adjoining Member States in the common control zone.
 - c) The extra-territorial application of both the border control and criminal laws of the adjoining Member States in the common control zone.
 - d) The underlying basis for the allocation and use of facilities and equipment in the common control zone for border control and other purposes.
 - e) The institutional and management arrangements for the joint border posts.
 - f) General provisions relating to temporary measures, dispute resolution and procedures for amendments and its entry into force.

CHAPTER II: JOINT BORDER POSTS AND COMMON CONTROL ZONES

Article 3: Establishment and objectives of Joint Border Posts

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



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

Article 4: Status of the land

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

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

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

Article 6: Demarcation and security of common control zones

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

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

Article 7: Exclusive use areas within common control zones


- 1) The Management Authority shall ensure that exclusive use areas in the common control zones are clearly marked and identified through the display of official signs.
- 2) The Officers of the adjoining Member States shall be empowered to control entry and exit and keep order within their exclusive use areas within the common control zone. They shall, if the need arises, request assistance from the Management Authority for this purpose.
- 3) The Officers or members of a law enforcement agency of an adjoining Member state shall not have access to the exclusive use area of the other adjoining Member State, except at the request or with the permission of the Officers of that other adjoining State.

Article 8: Traffic Control

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

Article 9: Synchronized hours of operation

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







CHAPTER III: CONDUCT OF BORDER CONTROLS

Article 10: Powers of Officers to carry out border controls

- 1) Officers of the adjoining Member States shall be empowered to carry out border controls strictly within the common control zones at the joint border posts mutually established in terms of Article 3 of this Act.
- 2) Such Officers of the adjoining Member States shall be empowered to exercise border controls within the common control zone in the State of location in accordance with their own national border control laws. For the avoidance of doubt, this includes the exercise of any powers of arrest, search, seizure, detention of persons and things, and all such other powers as may be specifically provided for in their own national border control legislation.
- 3) For the purpose of enabling Officers of each Member State to carry out their border controls at a joint border post in one or more adjoining States of location in terms of this Act, the border control legislation of each Member State shall mutually apply extraterritorially within the common control zones.

Article 11: Sequence of Controls

- 1) The exit formalities of the Member State of exit shall be carried out before the entry formalities of the Member State of entry. Such formalities shall, to the extent possible, be carried out jointly and shall be sequenced as may be mutually agreed to by adjoining Member States depending on practical considerations.
- 2) The Officers of the Member State of entry shall not commence carrying out border controls before the Officers of the Member State of exit have completed their border controls, regardless of the sequencing adopted in terms of paragraph 1 of this Article. Such handover of jurisdiction shall be by way of a final official stamp to that effect or electronic release received by the Member State of entry. For the purposes of this article, any form of relinquishment of such border controls, shall be considered a form of border controls.
- 3) The Officers of the Member State of exit shall, similarly, no longer carry out their border controls when the Officers of the Member State of entry have begun their own border controls except with the consent of the Officers of the Member State of entry duly authorized to take such decisions, which consent shall not be unreasonably withheld.



Article 12: Joint Controls

- 1) Notwithstanding the provisions of Article 11 of this Supplementary Act, the respective Officers of the adjoining Member States shall jointly conduct physical inspections and verifications, undertake searches, take samples of cargo and inspect means of transport, or where such is not reasonably practical, in immediate succession. Alternatively, either adjoining Member State may rely on the inspection and search results of the other, which results shall not be unreasonably withheld.
- 2) In the conduct of such joint controls, adjoining Member States shall ensure optimal use of facilities and equipment provided for such controls through joint and shared usage.

Article 13: Reversal of controls

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

Article 14: Obligation to readmit

- 1) Where, after completion of exit formalities, the Member State of entry refuses to admit any persons, vehicles, animals, merchandise, or other goods, or if such persons decide not to pass through the border controls of the Member State of entry, or decide to send or take back any vehicles, merchandise, animals or other goods under their control, the officers of the Member State of exit shall accept back such persons, vehicles, animals, merchandise, or other goods.
- 2) The competent authorities of the Member State of exit may, however, take any measures to deal with the circumstances outlined in paragraph 1 of this Article in accordance with their national laws and in a manner that does not impose obligations on the Member State of entry.

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Article 15: Computerized controls

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

Article 16: Free transfer of money and goods

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

Article 17: Higher levels of trade facilitation

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

CHAPTER IV: APPLICATION OF BORDER CONTROL LAWS

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

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



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

Article 19: Limitations to application of border control laws

- 1) Officers of an adjoining Member State shall not, in the common control zone, arrest or detain a person who is undertaking formalities of the other adjoining Member State. In exceptional circumstances where such person's attendance at the office of the said adjoining Member State may be required in order that a statement may be taken, such attendance shall be with the consent and in the presence of the competent authorities of the other adjoining Member State.
- 2) Nothing in paragraph 1 of this Article shall prevent an Officer of an adjoining Member State from passing on information to the other adjoining Member State relating to any person or goods exiting that other adjoining Member State which information can only be acted upon once such adjoining Member State assumes jurisdiction over such person or goods within the common control zone.

Article 20: Consistent operational procedures

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

Article 21: Information and Communication Technologies

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



CHAPTER V: APPLICATION OF CRIMINAL LAWS

Article 22: Criminal acts in terms of border control laws

- 1) Any act or omission in terms of the border control laws of a Member State that occurs within the common control zone at a joint border post—
 - a. by a citizen or resident or any other person who has not completed the formalities and procedures for exit or entry of that Member State; and
 - b. that is an act or omission which, if it had occurred within the territory of such Member State, would have constituted an offence against the laws of the said Member State, shall be regarded as if it had occurred within the territory of such Member State.
- 2) The law enforcement agencies of the adjoining Member States shall have jurisdiction to carry out their border control activities in the common control zone or assist other border control Officers in effecting their controls to the extent such is mandated by their national laws.
- 3) For the purpose of determining which court in the Member State has jurisdiction to try an offence referred to in paragraph 1 of this Article the offence shall be deemed to have been committed within the area of jurisdiction of the competent court nearest to the place where the act or omission constituting the offence occurred.

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

- 1) Subject to Article 7(3) of this Act, the law enforcement agencies of the adjoining Member States shall be equally responsible for maintaining peace, security, law and order, and dealing with non-border control related criminal offences committed in the control zone.
- 2) Such equal responsibility shall, depending on the arrangement governing the joint border post and at the mutual discretion of the adjoining Member States in consultation with the Community, either be shared, or joint, or delegated to one adjoining Member State or some other arrangement as may be agreed between the adjoining Member States in consultation with the Community.
- 3) The rules of operation of the law enforcement agencies in carrying out their responsibilities in terms of this Article shall be agreed to by the adjoining Member States and specified in a manual.



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

Article 24: Limitations to application of criminal laws

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

- 1) such arrest is authorized by a warrant issued by an authority or court of competent jurisdiction in that adjoining Member State; or
- 2) the name or description or both, together with particulars of the offence of which there are reasonable grounds for suspecting such person to have committed, have been made available by the competent authorities of that adjoining Member State to the competent authorities of the other Member State.

Article 25: Assistance and joint operations to combat crime

- 1) The law enforcement agencies of one adjoining Member State may, upon request and to the extent such is mandated by their national laws, assist those of the other adjoining Member State in effecting their mandated controls in the common control zone including, without limitation, the transfer of suspects and exhibits, the provision of secure holding cells and related facilities.
- 2) Adjoining Member States may agree to parameters for carrying out security related joint border patrols beyond the common control zones and within defined limits in each other's territory consistent with the principles contained in this Act to facilitate the combat of cross-border crime.

CHAPTER VI: CONDUCT OF OFFICERS

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

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



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

Article 27: Number of Officers, names and designation

- 1) The adjoining Member States shall agree on the number of Officers that may be tasked to undertake duties in the common control zone, which number shall take into account the passenger and vehicle volumes at any peak point in time. The number may be varied from time to time at the discretion of each adjoining Member State.
- 2) The competent authorities of the adjoining Member States shall inform each other, in writing, of the names and designation of the Officers that will be working within the common control zone. In the event of any changes, information of such changes shall be communicated promptly to the other adjoining Member State.

Article 28: Identification of Officers

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

Article 29: Carrying and use of arms

- 1) Officers of the adjoining Member States may, in the exercise and for purposes of their official functions and duties in the common control zone, carry appropriate arms where such is authorized under their national laws.
- 2) Law enforcement agencies with responsibilities in terms of Article 23 of this Act may, for purposes of executing such enforcement responsibilities, carry appropriate arms as authorized in their national laws, in the part of the common control zone over which they have jurisdiction in terms of this Act.



- 3) Notwithstanding the provisions of paragraph 2 of this Article in circumstances where a show or use of arms is required, the Officers of an adjoining Member State may enlist the assistance of the law enforcement agents of the other Member State, which assistance shall not be unreasonably denied. The rules governing the nature and extent of such assistance shall be part of the Rules of Operation issued in terms of Article 23(3) of this Act.
- 4) Nothing in this Act shall be construed as limiting the carriage of appropriate arms by officers of an adjoining Member State in that State's exclusive use areas within the common control zone.
- 5) The use of arms in the common control zone in terms of this Article shall be strictly restricted to circumstances requiring self defensive action or action in defense of other persons as provided for in the laws of each adjoining Member State.

Article 30: Communication and liaison at joint border post

- 1) Each adjoining Member State shall appoint an Officer serving at the joint border post to act as the focal point and main contact person for communication with the competent authorities of the other adjoining Member State.
- 2) Nothing in this Article shall prevent Officers representing individual border control agencies of an adjoining Member State from collaborating and consulting with Officers from their counterpart and other agencies of the other adjoining Member State during the course of the day-to-day performance of their functions and duties in the common control zone.

Article 31: Protection and assistance to Officers

- 1) An adjoining Member State shall grant the same protection and assistance as it grants its own Officers, to Officers of the other adjoining Member State in the exercise of their functions and duties, in the common control zone areas where it has exclusive responsibility and jurisdiction in terms of Article 23 of this Act.
- 2) In the circumstances anticipated in paragraph 1 of this Article, the laws of an adjoining Member State relating to the protection of its own Officers in the exercise of their functions shall apply equally to the punishment of offences committed against Officers of the other adjoining Member State in the exercise of their functions.



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

Article 32: Compensation for loss or injury

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

Article 33: Prosecution for offences

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

Article 34: Investigation of offences, witnesses

- 1) The law enforcement agents of an adjoining Member State with exclusive responsibilities and jurisdiction in certain areas in the common control zone shall take such steps as deemed necessary to investigate, record and communicate to the competent authorities of the other adjoining Member State all the particulars and evidence of any alleged offence committed in such areas in the common control zone by an Officer of the other adjoining Member State as contemplated in Article 33 above. The laws of the other adjoining Member State to which the said Officer belongs shall apply to such offences.
- 2) The Officers of an adjoining Member State shall be competent witnesses in proceedings of any offences committed in the common control zone, by an Officer of the other adjoining Member State or members of the public, to which they are investigating officers or percipient witnesses where such offences are tried before the courts of competent jurisdiction or other quasi-legal or administrative structures of the other adjoining Member State.



CHAPTER VII: FACILITIES IN THE COMMON CONTROL ZONE

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

Article 36: Free transfer of equipment for official use

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

Article 37: Communication links to own territory

- 1) The Officers of the adjoining Member States shall, whilst exercising their functions in the common control zone, be authorized to communicate with their national authorities and to establish such communication links to their own territories as shall be required for this purpose including but not limited to the extension of their local telecommunication and other networks into the common control zone.
- 2) To this end, the authorities of the State of location shall, where necessary, assist the Officers of the adjoining Member State to obtain telecommunications and other communication services subject to commercial costs and conditions normally prevailing.

Article 38: Harmonization of structures and facilities

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

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

Article 39: Public use facilities

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

CHAPTER VIII: CONDUCT OF FORWARDING AGENTS

Article 40: Access to common control zones by forwarding agents

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

Article 41: Vetting, registration, names and particulars

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

Article 42: Identification of forwarding agents

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

Article 43: Laws applicable in the common control zone

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



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

Article 44: Facilities to be allocated in common control zone

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

Article 45: Free transfer of equipment for official use

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

Article 46: Communication with national offices

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

Article 47: Transfer of money

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

Article 48: Access to electronic control systems

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

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CHAPTER IX: INSTITUTIONAL ARRANGEMENTS

Article 49: Community oversight institution and responsibilities

- 1) The Commission shall coordinate and monitor the establishment and implementation of the joint border posts concept within the Community.
- 2) Without prejudice to the generality of paragraph 1 of this Article the Commission shall:
 - a) coordinate the establishment of joint border posts within the Community to ensure uniformity of approach in the joint border post concept between adjoining Member States;
 - b) monitor the utilization of joint border posts at the various borders within the Community to ensure full compliance with the provisions of this Act;
 - c) set specific programs for the establishment and implementation of joint border controls at existing and future border posts within the Community;
 - d) initiate policies for the improvement of the efficiencies of Community joint border posts and any related trade facilitation matters;
 - e) set and monitor performance standards for which bilateral joint border post institutions shall be held responsible and accountable;
 - f) resolve any issues referred to the Commission by the Joint Committees to be established in terms of Article 50 of this Act;
 - g) account and be responsible to the Council through the appropriate institutions of the Community for all issues relating to the provisions of this Act;
 - h) in the exercise of its functions in terms of this Act, be subject to the general direction of the Council and perform such other functions as may be prescribed by the Council.
 - i) in the exercise of its functions in terms of this Act, the Commission may engage the services of any such persons from within or outside the Community as it deems appropriate on any matter under its responsibility.

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Article 50: Establishment and composition of the Joint Committees

- 1) A Joint Committee comprising equal numbers from each adjoining Member State of representatives of the competent authorities and representatives of forwarding agents of the adjoining Member States shall be established to oversee the implementation and operations of joint border posts between any adjoining Member States.
- 2) The adjoining Member States shall mutually agree as to the level of representation and shall determine the number of members of the Joint Committee. Each adjoining Member State shall be responsible for the nomination of its representatives who shall constitute the Joint Committee in accordance with its existing procedures for such nominations.
- 3) Notwithstanding the provisions of this Article, adjoining Member States may agree in consultation with the Commission, to utilize any existing appropriate national trade facilitation structures to carry out the responsibilities of the Joint Committee.

Article 51: Responsibilities of the Joint Committees

- 1) The Joint Committees shall determine the administrative measures necessary for the implementation of the joint border posts concept by adjoining Member States. They shall resolve any difficulties that may arise from such implementation including the power to constitute bilateral administrative and operations sub-committees comprising Officers of the adjoining Member States directly involved in undertaking border controls at the joint border posts.
- 2) Operatives of the forwarding agents at the joint border posts shall be co-opted into such administrative and operations sub-committees to ensure valuable contribution and feedback from the relevant private sector stakeholders.
- 3) Each Joint Committee shall monitor and assess the implementation of joint border posts concept under its jurisdiction and routinely report on progress and other relevant matters to the Commission through appropriate national and Community structures.

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Article 52: Meetings and procedures of the Joint Committees

- 1) The Joint Committees shall meet as often as required and alternate the locality of the meetings between the territories of the adjoining Member States, unless agreed otherwise.
- 2) The meetings of the Joint Committees shall be chaired by an Officer representing the adjoining Member State in whose territory the meeting is held, unless otherwise agreed.
- 3) The Joint Committees shall regulate their own rules of procedure at such meetings.
- 4) The Joint Committees shall adopt their decisions by consensus. In the event of failure to reach consensus, the Joint Committees shall first refer the matter for mutual resolution to existing bilateral conflict resolution mechanisms before referring the matter for resolution by the Commission.
- 5) Each Member State shall take all necessary administrative, financial and other measures to ensure the effective implementation of the joint border posts concept by the Joint Committees, including without limitation, the provision of adequate resources for the performance of their functions.

CHAPTER X: JOINT BORDER POSTS MANAGEMENT ARRANGEMENTS

Article 53: Appointment of Management Authorities

- 1) The Community, in consultation with the adjoining Member States, shall appoint a Management Authority for each joint border post. Such Management Authority may be one of the adjoining Member States, or a Management Committee composed of competent authorities of the adjoining Member States, or a private sector management contractor or a joint public and private sector management authority or some other body contracted by the Community in consultation with the adjoining Member States.
- 2) The appointment of a Management Authority shall be in terms of a specific legal instrument which shall be in conformity with the provisions of this Act.



Article 54: Responsibilities of a Management Authority

- 1) Without limiting the generality of this Article, the responsibilities and powers of a Management Authority may include general administration of the joint border post, maintenance of the facilities, provision and control of security services, provision and maintenance of operational and administrative equipment and any other responsibilities the Community may deem appropriate.
- 2) The scope, nature, powers, methods of carrying out such responsibilities and related costs shall be fully defined in the specific legal instrument appointing such Management Authority in terms of Article 53 of this Act.

CHAPTER XI: GENERAL AND FINAL PROVISIONS

Article 55: Temporary Measures

- 1) This Act shall not affect the rights of any Member State to take temporary measures in the interests of defence and security, public safety, public order, economic interests of the Member State, public morality, public health, and any other circumstances of a similar nature.
- 2) Such temporary measures may include, but not limited to, the reversal of the sequence or location of controls or the temporary closure of the joint border post by such Member State.
- 3) The adjoining Member State taking any temporary measures in terms of paragraph 1 of this Article shall, prior to taking such temporary measures, inform the other adjoining Member State without delay through the exchange of diplomatic notes and refer the matter to the relevant Joint Committee for the expeditious resolution of the circumstances leading to the temporary measures.
- 4) In circumstances where prior notification shall not be practical, the adjoining Member State taking such temporary measures shall simultaneously inform the other adjoining Member State of the temporary measures imposed through the exchange of diplomatic notes and refer the matter to the relevant Joint Committee for the expeditious resolution of the circumstances leading to the temporary measures.
- 5) Each adjoining Member State shall take responsibility to expeditiously inform its Officers working in the affected control zones about the temporary measures imposed.

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Article 56: Dispute Resolution

- 1) Any dispute that may arise in the interpretation, application and implementation of this Act and any subsidiary Regulations shall be resolved by and between the Member States amicably and in the spirit of friendship and co-operation.
- 2) The Member States shall, in resolving such disputes, primarily be guided by the need to give effect to the paramount objectives of this Act.
- 3) Any dispute between the Member States in terms of this Act that remains unresolved for a period of more than one hundred and eighty (180) days from the time such dispute is declared shall be referred for settlement in accordance with the provisions of the dispute settlement procedure stipulated in Article 76 of the Treaty.

Article 57: Amendment and review

- 1) Any Member State, the Council of Ministers and the Commission may submit proposals for the amendment and review of this Act.
- 2) All amendment and revision proposals shall be submitted to the Commission for onward communication to the Member States not later than thirty (30) days after reception. The Council of Ministers shall examine the amendment and revision proposals on expiry of the three (3) months period that is ordinarily granted to the Member States to enter their observations.
- 3) The amendment and revision shall be adopted by the Council of Ministers and submitted to the Authority of Heads of State and Government for approval and signature. Such amendments and revisions shall enter into force, in conformity with the provisions of Article 58 of this Act.

Article 58: Entry into force

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



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

Article 59: Publication

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

Article 60: Depository Authority

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

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

DONE AT ABUJA THIS 18TH DAY OF JULY 2013

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



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

[Signature]
H. E. Blaise COMPAORE
President of Burkina Faso

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

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

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

[Signature]
H. E. John Dramani MAHAMA
President of the Republic of Ghana

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

[Signature]
H. E. Manuel Serifo NHAMADJO
Interim President of the
Republic of Guinea Bissau

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

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

[Signature]
H. E. Mahamadou ISSOUFOU
President of the Republic of Niger

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

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

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

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