

# ECOWAS CUSTOM VALUATION RULES

**CHAPTER VIII**

**CO-OPERATION IN TRADE, CUSTOMS,**

**TAXATION, STATISTICS, MONEY AND PAYMENTS**

**ARTICLE 35**

**LIBERALISATION OF TRADE**

There shall be progressively established in the course of a period of ten (10) years effective from 1 January, 1990 as stipulated in Article 54, a Customs Union among the Member States. Within this union, Customs duties or other charges with equivalent effect on Community originating imports shall be eliminated. Quota, quantitative or like restrictions or prohibitions and administrative obstacles to trade among the Member States shall also be removed. Furthermore, a common external tariff in respect of all goods imported into the Member States from third countries shall be established and maintained.

**ARTICLE 36**

**CUSTOMS DUTIES**

1. Member States shall reduce and ultimately eliminate Customs duties and any other charges with equivalent effect except duties notified in accordance with Article 40 and other charges which fall within that Article, imposed on or in connection with the importation of goods which are eligible for Community tariff treatment in accordance with Article 38 of this Treaty. Any such duties or other charges are hereinafter referred to as "import duties."

2. Community-originating unprocessed goods and traditional handicraft products shall circulate within the region free of all import duties and quantitative restrictions. There shall be no compensation for loss of revenue resulting from the importation of these products.

3 Member States undertake to eliminate import duties on industrial goods which are eligible for preferential Community tariff treatment in accordance with the decisions of the Authority and Council relating to the liberalisation of intraCommunity trade in industrial products.

4. The Authority may at any time, on the recommendation of the Council, decide that any import duties shall be reduced more rapidly or eliminated earlier than stipulated in any previous instrument or decision. However, the Council shall, not later than one calendar year preceding the date in which such reductions or eliminations come into effect, examine whether such reductions or eliminations shall apply to some or all goods and in respect of some or all the Member States and shall report the result of such examination for the decision of the Authority.

**ARTICLES 37**

**COMMON EXTERNAL TARIFF**

1. Member States agree to the gradual establishment of a common external tariff in respect of all goods imported into the Member States from third countries in accordance with a schedule to be recommended by the Trade, Customs, Taxation, Statistics, Money and Payments Commission.

2. Member States shall, in accordancewith a schedule to be recommended by the Trade, Customs, Taxation, Statistics, Money and Payments Commission, abolish existing differences in their external Customs tariffs.

3. Member States undertake to apply the common Customs nomenclature and Customs statistical nomenclature adopted by Council.

**ARTICLE 38**

**COMMUNITY TARIFF TREATMENT**

1. For thepurposesof thisTreaty, goodsshallbe acceptedas eligiblefor Community tarifftreatment iftheyhavebeen consigned totheterritory oftheimporting Member States from the territory of another Member State and originate from the Community.

2. The rules governingproductsoriginatingfromtheCommunityshallbe as contained in the relevant Protocols and Decisions of the Community.

3. The Trade, Customs,Taxation,Statistics,Money and Payments Commission shall from time to time examine whether the rules referred to in paragraph 2 of this Article can be amended to make them simpler and more liberal. In order to ensure their smooth and equitable operation, the Council may from time to time amend them.

**ARTICLE39**

**TRADEDEFLECTION**

1. For the purposes of this Article, trade is said to be deflected if,

(a) importsof any particularproductby a Member State from anotherMember State increase:

(i) as a result of the reduction or eliminationof duties and charges on that product, and

(ii) because duties and charges levied by the exporting Member States on imports of raw materials used for manufacture ofthe product in question are lower than the corresponding duties and charges levied by the importing Member State; and

(b) this increase in imports causes or could cause serious injury to production which is carried on in the territory of the importing Member State.

2. The Council shall keep under review the question of trade deflection and its causes. It shall take such decisions as are necessary, in order to deal with the causes of this deflection.

3. In case oftrade deflection to the detriment of a Member State resulting from the abusive reduction or elimination of duties and charges levied by another Member State, the Council shall study the question in order to arrive at a just solution.

**ARTICLE 40**

**FISCAL CHARGES AND INTERNAL TAXATION**

1. Member States shall not apply directly or indirectly to imported goods from any Member State fiscal charges in excess of those applied to like domestic goods or otherwise impose such charges for the effective protection of domestic goods.

2. Member States shall eliminate all effective internal taxes or other internal charges that are made for the protection of domestic goods not later than four (4) years after the commencement ofthe trade liberalisation scheme referred to in Article 54 of this Treaty. Where by virtue of obligations under an existing contract entered into by a Member State such a Member State is unable to comply with the provisions of this Article, the Member State shall duly notify the Council of this fact and shall not extend or renew such contract at its expiry.

3. Member States shall eliminate progressively all revenue duties designed to protect domestic goods not later than the end ofthe period for the application ofthe trade liberalisation scheme referred to in Article 54 of this Treaty.

4. MemberStatesundertaketo be boundbytheconsolidated importdutiescontained in the ECOWAS Customs Tariff for the purposes of trade liberalisation within the Community.

5. Member States undertake to avoid double taxation of Community citizens and grant assistance to one another in combatinginternationaltax evasion. The conditions and modalities for granting such assistance shall be as contained in a Double Taxation and Assistance Convention.

**ARTICLE 41**

**QUANTITATIVE RESTRICTIONS ON COMMUNITY GOODS**

1. Except as may be provided for or permitted by this Treaty, Member States undertake to relax gradually and to remove over a maximum period of four (4) years after the launching of the trade liberalisation scheme referred to in Article 54, all the then existing quota, quantitative or like restrictions or prohibitions which apply to the import into that Stateof goods originating in the other Member Statesand thereafterrefrainfromimposinganyfurtherrestrictionsor prohibitions.

Whereby virtueof obligationsunderan existingcontract entered into by a Member State such a Member State is unable to comply with the provisions ofthis Article, the Member State shall duly notify Council of this fact and shall not extend or renew such contract at its expiry.

2. The Authority may at any time, on the recommendation ofthe Council decide that any quota, quantitative or like restrictions or prohibitions shall be relaxed more rapidly or removed earlier than agreed upon under paragraph 1 of this Article.

3. A MemberState may, after havinggiven notice to the ExecutiveSecretary and the other Member States ofits intention to do so, introduce or continue to execute restrictions or prohibitions affecting:

(a) the application of security laws and regulations;

(b) the control of arms, ammunition and other war equipment and military items;

(c) the protection of human,animal or plant health or life, or the protection of public morality;

(d) the transfer of gold, silver and precious and semi-precious stones;

(e) the protection of national artistic and cultural property;

(f) the control of narcotics, hazardous and toxic wastes, nuclear materials, radioactive products or any other material used in the development or exploitation of nuclear energy.

4. Member States shall not so exercise the right to introduce or continue to execute the restrictions or prohibitions referred to in paragraph 3 of this Article as to stultify the free movement of goods envisaged in paragraph 1 of this Article.

**ARTICLE 42**

**DUMPING**

1. Member States undertake to prohibit the practice of dumping goods within the Community.

2. Forthepurposes ofthisArticle, "dumping" means thetransfer ofgoodsoriginating in a Member State to another Member State for sale:

(a) at a pricelowerthanthecomparable pricechargedforsimilargoodsin the Member States where such goods originate (due allowance being made for the differences in the conditions ofsale or in taxation or for any other factors affecting the comparability of prices); and

(b) undercircumstanceslikely toprejudice theproduction of similargoodsin that Member State.

3. Intheeventofalleged dumping theimporting Member State shall appeal toCouncil to resolve the matter. 4. Council shall considerthe issue and take appropriate measuresto determine the causes ofthe dumping.

**ARTICLE 43**

**MOST FAVOURED NATION TREATMENT**

1. Member States shall accord to one another in relation to trade between them the most favoured nation treatment. In no case shall tariff concessions granted to a third country bya Member State bemore favourable than those applicable under this Treaty.

2. Any agreement between a Member State anda third country under which tariff concessions are granted, shallnotderogate fromthe obligations of that Member State under this Treaty.

3. Copies of such agreements referred to in paragraph 2 of this Article shall be transmitted by the MemberStates which are parties to them, to the Executive Secretariat of the Community.

**ARTICLE 44**

**INTERNALLEGISLATION**

MemberStates undertakenot to enact-legislation and/ormake regulationswhich directly or indirectly discriminate against the same or like products of another Member State.

**ARTICLE 45**

**RE-EXPORTATION OF GOODS AND TRANSIT FACILITIES**

1. Where Customs duty has been charged and collected on any goods imported from a third country into a Member State the re-exportation of such goods into another Member State shall be subject to the provisions of the Protocol relating to the re exportation of goods within the Community.

2. Each Member State, in accordance with international regulations and the ECOWAS Convention relating to Inter-State RoadTransitof Goods,shall grant fullandunrestricted freedom of transitthrough its territory for goods proceeding from a third country indirectly through that territory to or from other Member States; and such transitshall not be subject to any discrimination, quantitative restrictions, duties or other charges.

3. Notwithstanding paragraph 2 of this Article:

(a) goods in transit shall be subject to the Customs law; and

(b) goods in transit shall be liable to the charges usually made for carriage and for any services which may be rendered, provided suchcharges are not discriminatory and are inconformity with international transit regulations.

4. Wheregoodsare imported from a thirdcountry into one Member State,each of the other Member States shall befree toregulate the transfer toit ofsuch goods whether by a system oflicensing andcontrolling importers or by othermeans.

5. Theprovisions of paragraph 4 ofthis Article shall apply to goods which, under the provisions ofArticle 38ofthis Treaty, fail tobe accepted asoriginating in a Member State.

**ARTICLE 46**

**CUSTOMS CO-OPERATION AND ADMINISTRATION**

Member States shall in accordance with the advice of the Trade, Customs Taxation, Statistics, Moneyand Payments Commission and the provisions of the Convention for Mutual Administrative Assistance in Customs Matters, take appropriate measures to harmonise and standardise their Customs regulations and procedures to ensure the effectiveapplicationof the provisionsof this Chapterand to facilitatethe movementof goods and services across their frontiers. 30 ECOWAS REVISED TREATY

**ARTICLE 47**

**DRAWBACK**

1. The procedure to determine the eligibility for Community tariff treatment of goods in relation to which drawback is claimed or made use of in connection with their exportation from the Member States in the territory of which the goods have undergone the last process of production, shall be the subject of an additional Protocol.

2. For the purposes of this Article:

(a) "drawback" means any arrangement, including temporary duty-free admission, for the refund of all or part of the duties applicable to imported raw materials, provided that the arrangement, expressly or in effect, allows such refund or remission if goods are exported but not if they are retained for home use;

(b) "remission" includes exemption from duties for goods imported into free ports, free zonesor other places whichhave similarCustomsprivileges; and

(c) "duties" means Customs duties and any other charge with equivalent effect imposed on imported goods, except the non-protective element in such duties or charges.

**ARTICLE 48**

**COMPENSATION FOR LOSS OF REVENUE**

1. TheCouncilshall, onthereport oftheExecutive Secretary andtherecommendation of the Trade, Customs, Taxation, Statistics, Money and Payments Commission, determinethecompensation to be paidto a MemberStatewhichhas sufferedloss of import duties as a result of the applicationof this Chapter. 2. The Councilshall,in additionto compensation to be paid to MemberStateswhich suffer loss of revenue as a result of the application of this Chapter, recommend measures forpromoting productive andexportcapacities of thesecountries so as to enable them to take full advantage of the benefits of trade liberalisation.

3. The method of assessment of the loss of revenue and compensation shall be as stipulated in the Protocol on the Assessmentof Loss of Revenue.

**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 ofthe Council.

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

**ARTICLE 50**

**TRADE PROMOTION**

1. Member States agree to undertake, through their public and private sectors, trade promotion activities such as:

a) promotion of the use of local materials,intermediate goods and inputs, as well as finished products originating within the Community;

b) participation in the periodic national fairs organised within the region, sectoral trade fairs, regional trade fairs and other similar activities.

2. At regional level, the Community shall undertake trade promotion activities' which" may include:

a) organisation, on a regular basis of an ECOWAS Trade Fair;

b) harmonisationof the programming of national tradefairs and similar events;

c) establishment of an intra-Community trade information network;

d) study of supply and demand patternsin Member States and dissemination of the findingsthereonwithinthe Community;

e) promotion ofthediversification ofWestAfrican markets, andthemarketing of Community products;

f) promotion of better terms of trade for West African commodities and improvement of access to international markets forCommunity products; and

g) participation, where appropriate, in international negotiations within the framework of GATT and UNCTAD and other trade-related negotiating fora.

**ARTICLE 51**

**MONEY, FINANCE AND PAYMENTS**

1. In order to promote monetary and financial integration, and facilitate intraCommunity tradein goods andservices and the realisation of theCommunity's objective of establishing a monetary union, Member States undertake to:

a) study monetary and financial developments in the region;

b) harmonise their monetary, financial and payments policies;

c) facilitate the liberalisation of intra-regional payments transactions and, as an interim measure, ensure limited convertibility of currencies;

d) promotethe roleof commercialbanksin intra-community trade financing;

e) improve the multilateral system for clearing of payments transactions between Member States, and introduce a credit and guarantee fund mechanism;

f) take necessary measures to promote the activities of the West Africa MonetaryAgency in order to ensureconvertibilityof currenciesand creation of a single currency zone;

g) establish a Community Central Bank and a common currency zone.

**ARTICLE 52**

**COMMITTEE OF WEST AFRICAN CENTRAL BANKS**

1. There is hereby established a Committee of WestAfrican Central banks comprising the Governors of Central Banks of Member States. This Committee shall, in accordance with the provisions of this Treaty, prepare its own rules of procedure.

2. The Committee shall, from time to time, make recommendations to the Council on the operation of the clearing system of payments and other monetary issues within the Community.

**ARTICLE 53**

**MOVEMENT OF CAPITAL AND CAPITAL ISSUES COMMITTEE**

1. For the purpose of ensuring the free movement of capital between Member States in accordance with the objectives of this Treaty, there is hereby established a Capital Issues Committee which shall comprise one representative of each ofthe Member States and which shall, subject to the provisions of this Treaty, prepare its own rules of procedure.

2. Member States shall, in appointing their representatives referred to in paragraph 1 of this Article, designate persons with financial, commercial or banking experience and qualifications.

3. The Capital Issues Committee, in the performance of the duties assigned to it under paragraph 1 of this Article, shall:

a) ensure the unimpeded flow of capital within the Community through:

i) theremoval ofcontrols onthetransferofcapital among theMember Statesin accordance witha time-table determined by Council;

ii) the encouragement of the establishment of national and regional stock exchanges; and

iii) the interlocking of capital markets and stockexchanges.

b) ensure that nationals of a Member State are given the opportunity of acquiring stocks, sharesand othersecurities or otherwiseof investing in enterprises in the territories of other Member States;

c) establish a machinery for the wide dissemination in the Member States of stock exchange quotations of each Member State;

d) establish appropriate machinery for the regulation of the capital issues market to ensure its proper functioning and the protection ofthe investors therein.