**THE ECONOMIC COMMUNITY OF WEST AFRICAN STATE (ECOWAS) 0N SANITARY AND PHYTOSANITARY MEASURES**

**CHAPTER 3**

**TECHNICAL BARRIERS TO TRADE**

**SANITARY AND PHYTOSANITARY MEASURES**

**ARTICLE 25**

**OBJECTIVES**

1. The objectives of this Chapter are to facilitate trade in goods between the Parties while increasing the capacity of the Parties to identify, prevent and eliminate unnecessary obstacles to trade as a result of technical regulations, standards and conformity assessment procedures applied by either Party while increasing the capacity of the Parties to protect plants, animals and public health.

2. When applying the provisions of this Chapter, each Party shall ensure that imported products originating in the territory of the other Party shall be treated in a way that is non-discriminatory in comparison with the treatment given to similar products of domestic origin and similar products originating in third countries.

3. Under the provisions of paragraphs 2 and 3 of Article 2 of the WTO Agreement on the Application of Sanitary and Phytosanitary Measures set out in Annex 1A to the WTO Agreement (hereinafter referred to as the “SPS Agreement”), each Party shall also ensure that the sanitary and phytosanitary measures taken to preserve human health or safety or the lives or health of animals and to protect plants and the environment shall not have the purpose or effect of creating unnecessary barriers to trade in goods between the two Parties. These measures shall therefore not restrict trade more than is strictly necessary.

**ARTICLE 26**

**SCOPE AND DEFINITIONS**

1. The provisions of this Chapter shall apply to technical regulations and standards, to the conformity assessment procedures set out in the Agreement on Technical Barriers to Trade in Annex 1A to the WTO Agreement (hereinafter referred to as the “TBT Agreement”) and to the sanitary and phytosanitary measures (hereinafter referred to as “SPS measures”) defined in the SPS Agreement in so far as they affect trade between the Parties.

2. For the purposes of this Chapter and unless otherwise indicated, the definitions used in the TBT Agreement and in the SPS Agreement, the relevant standards and instruments adopted by the Codex Alimentarius Commission, the 1997 International Plant Protection Convention (IPPC) of the United Nations Food and Agriculture Organisation (FAO), and by the World Organisation for Animal Health (OIE) shall apply, including any reference to the products in this Chapter.

**ARTICLE 27**

**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 to Annex D to this Agreement.

2. In accordance with Article 31 of this Agreement, the Parties shall keep each other informed in good time of any significant changes in the competent authorities shown in Appendix II to Annex D to this Agreement. The Joint Implementation Committee of the EPA shall adopt any amendment necessary of Appendix II to Annex D to this Agreement.

**ARTICLE 28**

**MUTUAL OBLIGATIONS**

1. The Parties reaffirm their rights and obligations under the relevant WTO Agreements, in particular under the SPS and TBT Agreements. The Parties also reaffirm their rights and obligations arising from the relevant standards and instruments adopted by Phytosanitary Measures Commission of the IPPC, the Codex Alimentarius Commission and the OIE. The States that are not members of the WTO also confirm their commitment to applying the obligations provided for in the SPS and TBT Agreements in all areas concerning trade relations between the Parties.

2. The Parties reaffirm their commitment to improving public health in their respective territories, in particular by strengthening their capacities to identify non-compliant products.

3. When trading with one another, the Parties shall refrain from exporting or reexporting products that no not observe the requirements in force in the legislation of the exporting Party. However, the export or reexport of products subject to SPS measures shall be permitted if provision is expressly made for this by the authorities of the importing Party. The export of other products shall be permitted, unless this is prohibited by the legislation of the importing Party.

4. These commitments, rights and obligations underpin the activity of the Parties in relation to this Chapter.

**ARTICLE 29**

**EQUIVALENCE**

1. The Parties shall accept the sanitary and phytosanitary measures of the other Party as equivalent, even if such measures differ from their own or those that are used by third countries marketing the same product, if the exporting Party objectively proves to the importing Party that the appropriate level of sanitary or phytosanitary protection applied in the territory of the importing Party is achieved through the domestic measures in question. For this purpose, reasonable access shall be given, upon request, to the importing Party for inspection, testing and other relevant procedures.

2. The Parties shall consult one another, on request and by mutual agreement, in order to reach, where applicable, bilateral and multilateral agreements on recognition of the equivalence of specified sanitary or phytosanitary measures.

**ARTICLE 30**

**DETERMINATION OF SANITARY AND PHYTOSANITARY AREAS**

In relation to importing 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 adapted to the sanitary and phytosanitary characteristics of the areas - whether all of a country, part of a country, or all or parts of several countries - from which the product originated and for which the product is destined.

**ARTICLE 31**

**TRANSPARENCY OF TRADE CONDITIONS AND EXCHANGE OF INFORMATION**

1. To ensure conformity with their regulations, the Parties shall mutually inform one another of any change in their legal and administrative requirements concerning the products, in accordance with the notification procedures of the SPS and TBT Agreements.

2. If necessary, the Parties agree to inform each other in writing of the measures taken to prohibit the importing of goods with the aim of addressing a given problem concerning health (public, animal or plant), risk prevention or the environment as soon as possible, 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 technical regulations and standards subject to which they may access each other’s markets.

4. If necessary, the Parties shall also directly exchange information on other areas that the Parties agree to be of potential importance for their trade relations, including food security issues, the sudden appearance of animal or plant diseases, scientific opinions and other noteworthy events relating to product safety.

5. If necessary, the Parties agree to exchange information on the epidemiological surveillance of animal diseases. As regards phytosanitary protection, the Parties shall inform each other of the appearance of parasites presenting a known and immediate danger for the other Party, at the other Party’s request.

6. The Parties agree to cooperate with a view to rapidly alerting each other when new regional rules might have an impact on mutual trade, in line with the notification procedures of the SPS and TBT Agreements.

**ARTICLE** **32**

**REGIONAL INTEGRATION**

1. In order to facilitate trade between them, the Parties undertake to harmonise the rules, measures and conditions relating to imports at regional level, as far as this is possible.

2. Where import conditions already exist at the time of this Agreement’s entry into force, and pending the introduction of harmonised import conditions, the existing import conditions shall be implemented by the States of the West African region and the European Union on the basis that a product originating in one of the Parties, legally placed on the market of a State of the other Party, may also be legally placed on the market of any other State of the other Party, without any further restriction or administrative requirement.

3. Regarding the measures arising from this Chapter, the West African States shall ensure that the treatment they give to products originating in West Africa is no less favourable than the treatment they give to similar products originating in the European Union entering the West African region.

**ARTICLE** **33**

**COOPERATION**

1. The Parties recognise the importance of cooperating in the areas of technical regulations, sanitary and phytosanitary measures, conformity assessment and traceability in order to achieve the objectives of this Chapter.

2. The Parties agree to cooperate in order to raise the quality and competitiveness of priority products for the States of the West African region shown in Appendix I to Annex D to this Agreement and access to the market of the European Union, including through financial assistance measures, in accordance with the provisions of Part III of this Agreement, in the following areas in particular:

(a) The 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 facilitating participation by representatives of the West Africa Party in the meetings of such bodies;

(c) The adoption of technical standards and regulations, conformity assessment procedures and sanitary and phytosanitary measures that are harmonised at regional level on the basis of the relevant international standards;

(d) The strengthening of the capacities of public and private operators, including information and training, with a view to complying with the phytosanitary standards, regulations and measures of the European Union, and to participating in the work of international standardisation bodies;

(e) The development of national capacities to comply with standards and assess product compliance and traceability and to gain access to the market of the European Union.