No. 32497

MULTILATERAL

Protocol relating to Community enterprises (with annex). Concluded at Lomé on 23 November 1984

Authentic texts: English and French.

Registered by the Economic Community of West African States on 1 February 1996.

MULTILATÉRAL

Protocole relatif aux entreprises communautaires (avec annexe). Conclu à Lomé le 23 novembre 1984

Textes authentiques : anglais et français.

Enregistré par la Communauté économique des États de l'Afrique de l'Ouest le 1er février 1996.

PROTOCOL[1] RELATING TO COMMUNITY ENTERPRISES

THE HIGH CONTRACTING PARTIES

RECALLING the provisions of Articles 2 and 32 of the Treaty of the Economic Community of West African States[2] relating to the integration and development of the economies of Member States of the Community;

RECALLING the provision of the Protocol relating to the definition of the concept of products originating from Member States of ECOWAS;

RECALLING Resolution ECW/CM/VI/RES.26 of November 1979 of the Council of Ministers relating to the formulation of ECOWAS Regional Industrial Policy and Programme;

RECALLING Decision No. A/DEC/1/5/83 dated 30th May 1983 of the Authority relating to the Adoption and the

[1] Came into force provisionally on 23 November 1984 in respect of the following States, on whose behalf it was signed on that date, and definitively on 12 May 1989, upon deposit with the Executive Secretary of the Economic Community of West African States of instruments of ratification by seven signatory States(*), in accordance with article 25 (1):

Participant	*Date of deposit of the instrument of ratification*
Benin	
Burkina Faso	
Cape Verde	
Côte d'Ivoire	
Gambia	
Ghana*	12 May 1989
Guinea	
Guinea-Bissau	
Liberia	
Mali*	18 January 1989
Mauritania	
Niger*	23 October 1987
Nigeria*	18 April 1988
Senegal*	10 September 1986
Sierra Leone*	30 September 1986
Togo*	17 February 1988

Subsequently, instruments of ratification were deposited with the Executive Secretary of the Economic Community of West African States on the dates indicated hereafter, to take effect on the same date:

Gambia	10 July 1989
Guinea	13 October 1989
Burkina Faso	25 April 1990
Guinea-Bissau	13 November 1990
Côte d'Ivoire	19 July 1991
Liberia	9 April 1992

[2] United Nations, *Treaty Series*, vol. 1010, p. 17.

Implementatation of a single Trade Liberalisation Scheme for Industrial Products originating from Member States and the classification of the Member States contained in Article 4 thereof;

MINDFUL of the fact that the responsibility for the economic development of the West African sub-region rests with the Member States themselves;

CONSIDERING that in furtherance of the objectives of the Treaty, Community enterprises can be vital agents for the promotion of more rapid integration of the economies of the Member States through the provision of additional avenues for joint endeavours under a Community framework;

HAVE AGREED AS FOLLOWS:

ARTICLE 1: DEFINITIONS

In this Protocol:

"Treaty" means the Treaty of the Economic Community of West African States signed in Lagos on the 28th May 1975;

"Community" means the Economic Community of West African States established by Article 1 of the Treaty;

"Member State" means a Member State of the Community;

"third country" means a country other than a Member State of the Community;

"Authority" means the Authority of Heads of State and Government of the Community established by Article 5 of the Treaty;

"Council" means the Council of Ministers of the Community established by Article 6 of the Treaty;

"Executive Secretariat" and "Executive Secretary" means the Executive Secretariat and Executive Secretary of the Community as provided for under Article 8 of the Treaty;

"The Fund" means the Fund for Cooperation, Compensation and Development established by Article 50 of the Treaty;

"Selection Panel" means the Panel established by Article 11 of this Protocol;

"Community Enterprise" means an enterprise admitted to the status of a Community Enterprise under this Protocol and enjoying the benefits and guarantees granted thereunder;

"national enterprise" means an enterprise that is registered in a Member State and operating under the national laws of the Member States;

"intergovernmental enterprise" means an enterprise whose equity capital is owned entirely by two or more Member States;

"citizen of the Community" means a citizen of the Community as defined in the Protocol relating to the Definition of Community Citizen;[1]

"national of a Member State" means a national of a Member State who is otherwise not qualified as a citizen of the Community;

"unit of account" means the unit of account specified in paragraph 3 of Article 6 of the Protocol relating to the Fund;

"value added" means value added as defined by Article 1 of the Protocol relating to the Definition of the Concept of Products originating from Member States;

[1] United Nations, *Treaty Series*, vol. 1690, No. I-29138.

"legal persons of Member States" means institutions or companies in which Member States or their nationals own not less than 51% of the equity capital;

"processing" shall have the same meaning ascribed to it in the Protocol Relating to the Definition of the Concept of Products originating from Member States.

ARTICLE 2 - OWNERSHIP AND FORM OF COMMUNITY ENTERPRISES

1. Subject to the provisions of this Protocol, an enterprise may be admitted to the status of Community Enterprise under this Protocol if its equity capital is owned by:

(a) two or more Member States, or

(b) two or more Member States and citizens or institutions of the Community or nationals or legal persons of a Member State or nationals or legal persons of third countries.

2. Any enterprise in respect of which an application is made for admission to the status of a Community Enterprise, shall first have been incorporated as a public limited liability company or established as an intergovernmental enterprise in a Member State.

ARTICLE 3 - CONDITIONS FOR THE APPROVAL OF A COMMUNITY ENTERPRISE

1. No enterprise shall be admitted to the status of a Community Enterprise unless it complies with the provisions of Article 2 of this Protocol and in addition it satisfies the following conditions:

(a) (i) in respect of an enterprise referred to in sub-paragraph (a) of paragraph 1 of Article 2 of this Protocol, its entire equity capital is vested in two or more Member States, or