



**AIR TRANSPORT
SUPPLEMENTARY ACTS**



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Abuja, Nigeria

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First printing January 2016

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Printed by: Tracemark Global Services Limited (+2348068183931)

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COMUNIDAD DOS ESTADOS DA
AFRICA DO OESTE

COMMUNAUTE ECONOMIQUE DES
ETATS DE L'AFRIQUE DE L'OUEST



ECONOMIC COMMUNITY OF
WEST AFRICAN STATES

FORTIETH ORDINARY SESSION OF THE HEADS
OF STATE AND GOVERNMENT OF THE ECOWAS
MEMBER STATES

Abuja, 16 to 17 February 2012

SUPPLEMENTARY ACT A/SP.3/02/12 RELATING TO THE COMMON
RULES ON LIBERALIZATION OF MARKET ACCESS
TO GROUND HANDLING SERVICES IN AIRPORTS OF
ECOWAS MEMBER STATES

THE HIGH CONTRACTING PARTIES,

MINDFUL of articles 7, 8 and 9 of ECOWAS revised Treaty as amended establishing the Authority of Heads of State and Government and defining its composition and functions;

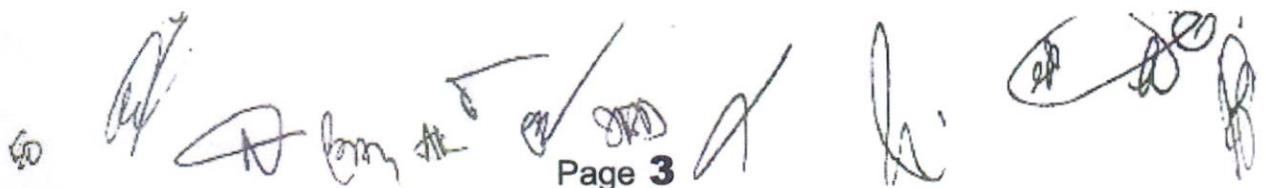
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RECALLING the Convention on International Civil Aviation signed at Chicago, on the 7th December 1944 and its annexes;

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Transport Markets in Africa adopted on the 14th of November 1999 by the African Ministers in charge of civil aviation; and endorsed by the OAU Heads of State in Lome, Togo, in July 2000;

MINDFUL also of the Memorandum of Understanding (MOU) on the implementation of the Decision on the Liberalization of Air Transport in West and Central Africa signed by 23 States of West and Central Africa on 14 November 1999;

ACKNOWLEDGING that the reports of the 3rd, 4th and 5th Meetings of Ministers responsible for Civil Aviation in West and Central Africa, noted some discrepancies in national rules and regulations concerning Slot Allocation, Denied Boarding, Ground Handling, Approval of Airline, Conditions for Market Access, Air Tariffs, Liability of Airline in case of an Accident, Rules of Competition and Exemption issued by the member States in West and Central Africa;

CONSIDERING that such disparities contradict the spirit and objectives of the Yamoussoukro Decision;

DETERMINED to address the disparities and to harmonize national legislations and regulations in matters of Air Transport Services;

DESIROUS to adopt a Common Community legal framework on the Liberalization of Access to Ground Handling Markets at Airports of ECOWAS Member States;

ON THE PROPOSAL of the Meeting of Transport Ministers held in Yamoussoukro on the 17 September 2011;

HAVING received the opinion of the ECOWAS Parliament;

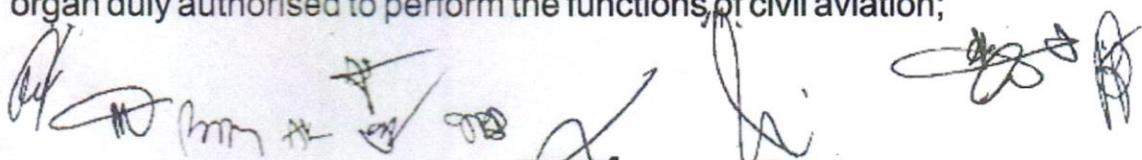
ON THE RECOMMENDATION of the Sixty-Seventh Session of the Council of Ministers held in Abuja, from 19 to 21 December 2011.

HEREBY AGREE AS FOLLOWS

Article 1: Definitions

For the purpose of this Supplementary Act, unless otherwise stated, the following terms shall have the meanings assigned to them hereafter:-

Aeronautical Authority: any governmental authority, corporate body, or organ duly authorised to perform the functions of civil aviation;



Airport: Land specifically developed for landing, take-off and aircraft movements, including subsidiary facilities for traffic requirements and aircraft operations as well as necessary installations to assist commercial air services;

Airport User: Users carrying out activities at an airport such as air carriers, air navigation services, ground handling services, forwarding agencies, passengers and any other commercial business;

Community: The Economic Community of West African States as referred to in article 2 of the ECOWAS Revised Treaty;

Council: Council of Ministers as established under article 10 of ECOWAS revised Treaty

ECOWAS Commission: ECOWAS Commission established in article 17 of the ECOWAS Revised Treaty as amended in June 2006;

Ground Handling: Services provided at an airport to a user as described in the Annex;

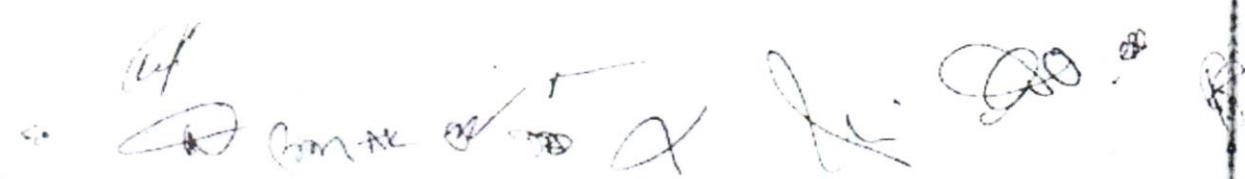
Ground handling service user: Individual or legal entity carrying by air, passengers, mail and/or freight/cargo from or to the airport concerned.

Managing entity of the airport: Entity which, jointly (or not) with other activities, is vested under national legislation or regulations with the administration and management of the airport infrastructure and the coordination of the activities of the various operators present at the airport of member State;

Member State: A State party to the ECOWAS Revised Treaty

Self-handling : Situation in which a user provides directly to itself one or several categories of ground handling services and has signed no contract with any third party under any name, for the purpose of providing such services.

Service provider of ground handling: Any individual or legal entity providing one or several categories of ground handling services.

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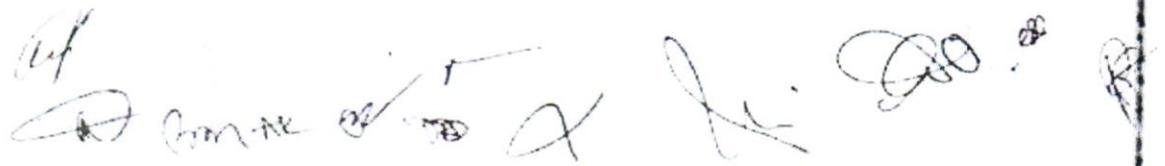
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Article 2: Purpose

The Supplementary Act aims at liberalizing access to the ground handling market in the ECOWAS member States.

Article 3: Scope

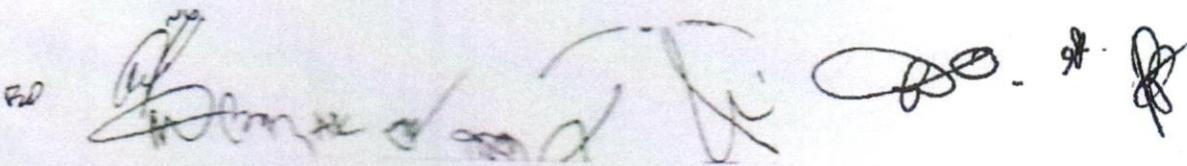
The Supplementary Act and the attached Annex shall define the rules and modalities on the liberalization of access to ground handling markets at airports in ECOWAS member States.

Article 4: Modalities of application

1. Member States shall ensure that service providers are granted free access to ground handling markets.
2. Member States shall ensure that the activity of a service provider at an airport is subject to an approval issued by the competent authority.
 - a) The criteria for granting an approval must refer to a sound financial situation, technical capability assessed according to tasks to be carried out and sufficient insurance coverage; such criteria shall also refer to the safety and security of facilities, aircraft, equipment or persons as well as environmental protection and compliance with the relevant social legislation.
 - b) The aforesaid criteria shall be made public and the service provider shall be notified before the approval procedures are initiated.
3. The approval may be refused or withdrawn if the service provider, for reasons under its control, does not meet the criteria set forth in paragraph 2 above. The reasons for such refusal or withdrawal shall be communicated in writing to the service provider concerned. In case of withdrawal, the managing entity of the airport shall be advised.

Article 5: Centralized Infrastructure

1. Member States may reserve, either to the managing entity of the airport or another entity, the management of the centralized

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infrastructure used for the provision of ground handling services and whose complexity, cost and impact on the environment do not allow division or duplication, such as systems for baggage sorting, water purification and fuel distribution. The use of such infrastructure by service providers may be made mandatory by member States.

2. Member States shall ensure that the management of this infrastructure is transparent, objective and non-discriminatory and in particular, it should not constitute an obstacle to its access by service providers within the limitations of the present Supplementary Act.

Article 6: Separation of activities

1. The managing entity of an airport or any service provider carrying out ground handling activities, shall make a strict accounting separation in line with commercial practices, between activities relating to ground-handling and any other activity.
2. The effectiveness of such an accounting separation shall be controlled by an independent auditor appointed by the Civil Aviation Authority.
3. Each Member State shall verify the absence of financial flow between the ground handling activity and the service provider's other activities.

Article 7: Airport Users' Committee

1. After the entry into force of the present Supplementary Act, member States shall ensure that for each of the airports concerned, a Committee is established composed of users' representatives or organizations representing these users.
2. Any user shall be entitled to become a member of the above Committee and if he/she so wishes, to be represented by an organization vested with this mission.
3. The airport users' Committee shall be an advisory body. It shall give opinions on matters relating to the organization, notably on tariffs and ground handling operation.

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Article 8: Regional coordination

The Air Transport Committee shall be responsible for the regional coordination on the implementation and follow up of the present Supplementary Act.

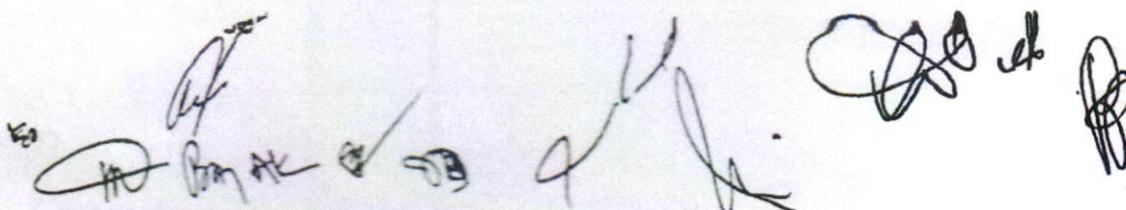
Article 9: Selection of service providers

1. Member States shall take the necessary action to develop a procedure for the selection of service providers approved to provide ground handling services at an airport when their number is limited in cases provided for in Article 10 below.
2. This procedure shall be based on standard conditions and technical specifications that service providers should comply with. Such conditions and specifications shall be developed after consultation with the airport users' Committee.
3. The selection criteria set forth in the specifications referred to above shall be relevant, objective, transparent and non-discriminatory.
4. Any decision taken accordingly shall be notified to the ECOWAS Commission, which shall publish it in the official Journal of ECOWAS.

Article 10: Special provisions

1. When, at an airport:
 - a) the level of activity does not justify the existence of several service providers with guaranties of public service continuity;
 - b) specific constraints of space or available capacity, in particular based on congestion and utilization rate of surfaces, make impossible the liberalization of the ground handling market to the level provided for in the present Supplementary act;
 - c) specific security and safety constraints so require;

Member States may limit the number of service providers for one or several categories of ground handling services.



2. Any decision taken pursuant to paragraph 1 above shall:
 - a) specify the category (ies) of services to which an exemption is granted as well as the specific constraints of space and available capacity which justify it;
 - b) be accompanied by a set of appropriate measures aimed at removing such constraints;

Furthermore, the decision shall not:

- i) prejudice the purpose of this Supplementary Act;
 - ii) result in distortion of competition between service providers.
 - iii) extend further than necessary.
3. Member States shall notify the ECOWAS Commission, at least three months before its entry into force, any decision taken pursuant to paragraph 1 of this article as well as grounds for such a decision.
4. The ECOWAS Commission shall conduct an in-depth examination of the decision taken pursuant to paragraph 1 this article, presented by the member State.

Article 11: Self-handling

For specific reasons, a member State may extend to self-handlers the provisions of the present Supplementary Act

Article 12: Security, Safety and Facilitation

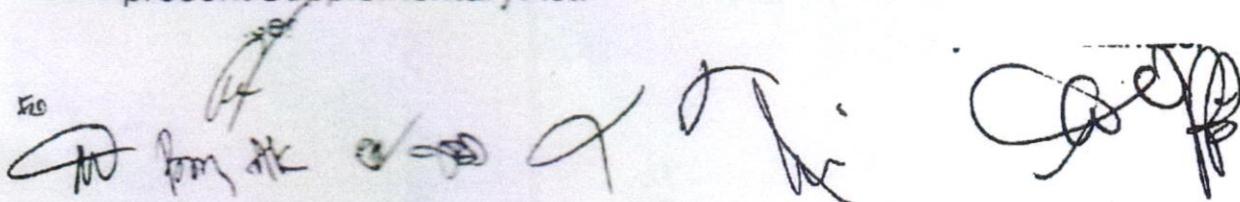
In the implementation of the present Supplementary Act, member States shall take necessary measures to comply with the Standards and Recommended Practices of International Civil Aviation Organization (ICAO) in matters of safety, security and facilitation at airports.

Article 13: Reciprocity

1. Without prejudice to the international commitments of ECOWAS member States, when it appears that, as regards to access to the ground handling market or self-handling, a third country does not:
 - a) de jure or de facto, offer to air carriers of ECOWAS member States a treatment comparable to that granted by member States to users and service providers of that country, or
 - b) de jure or de facto, grant national treatment to air carriers of a member State or grants to air carriers of member States other third countries
A member State may suspend in its entirety or partly the enforcement of certain obligations stemming from this Section with respect to service providers and self-handlers of that third country in compliance with ECOWAS law.
2. The member State concerned shall inform the ECOWAS Commission of any suspension or withdrawal of rights or obligations.

Article 14: Report and cooperation

1. Member States and the Commission shall cooperate in the enforcement of these Supplementary Acts. Information obtained through the enforcement of this Supplementary Act shall be treated as confidential.
2. The ECOWAS Commission shall present a report to the Council on the enforcement of the Supplementary Act every (2) years after their entry into force.
3. The ECOWAS Commission shall enter into cooperation with other international organizations for the purpose of implementing the present Supplementary Act.

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Article 15: Implementation of the Supplementary Act

1. The member States shall take all necessary legislative and regulatory measures for effective implementation of the present Supplementary Act.
2. The ECOWAS member States shall communicate to ECOWAS Commission any measures concerning the implementation of the present Supplementary Act.

Article 16: Amendments

1. Any Member State may submit proposal for amendment or revision of this Supplementary Act to the ECOWAS Commission.
2. Such proposed amendment shall be subject to the provisions of article 90 of the ECOWAS Treaty relating to the procedures of amendment and revision.

Article 17: Entry into Force and Publication

1. This Supplementary Act shall enter into force from the date of its signature by the Authority of the Heads of State and Government of ECOWAS.
2. It shall be published in the Official journal of the Community, within thirty (30) days of its signature by the Authority of the Heads of State and Government of ECOWAS.

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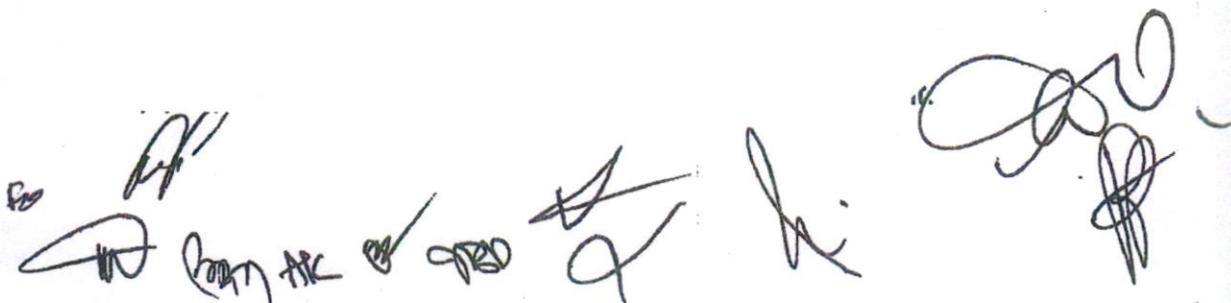
Article 18: Depositary Authority

This Supplementary Act shall be deposited at the Commission which shall transmit certified copies thereof to all member States and register same with the African Union (AU), the International Civil Aviation Organization (ICAO) and such other organizations as may be decided by the Council.

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

DONE IN ABUJA, THIS 17th DAY OF FEBRUARY 2012

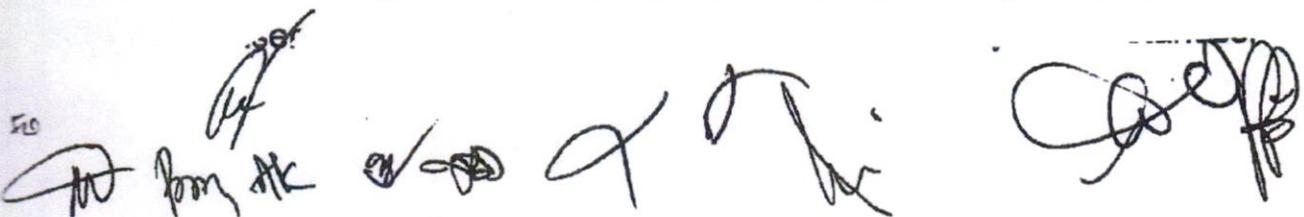
IN SINGLE ORIGINAL, IN THE ENGLISH, FRENCH AND PORTUGUESE LANGUAGES, ALL THREE TEXTS BEING EQUALLY AUTHENTIC

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ANNEX: LIST OF GROUND HANDLING SERVICES

1. The administrative ground assistance and supervision shall include:
 - a) Representation and liaison services with local authorities or any other person, disbursements on behalf of the user and the provision of premises to his/her representatives;
 - b) loading, messages and telecommunications control;
 - c) Processing, stocking, handling and management of loading units;
 - d) Any other supervisory service before, during and after flight and any other administrative service requested by the user.
2. "Passenger" assistance shall include any form of assistance to departing or arriving passengers, passengers in transit or those waiting for their connecting flights, namely the control of air tickets, travel documents, baggage checking and their carriage up to the screening system.
3. "Baggage" assistance shall include baggage processing in screening rooms, their screening, their preparation with a view to departure, their loading or unloading from the systems intended to take them from the aircraft to the screening room and vice versa, as well as the baggage carriage from the screening room to the distribution room.
4. "Freight and mail" assistance shall include:
 - a) for import, export or transit freight, physical freight handling, processing of documents, custom formalities or any measure of conservation agreed between parties or required by circumstances;

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- b) for mail, upon arrival and departure, physical processing of mail, document processing and measure of conservation agreed between parties or required by circumstances.

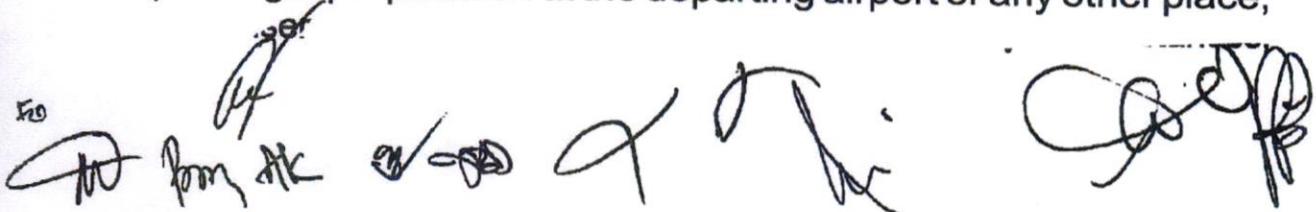
5. The "runway operations" assistance shall include:

- a) guiding the aircraft upon arrival and departure:
- b) assistance to aircraft parking and provision of appropriate means;
- c) communications between the aircraft and the service provider on air side;
- d) loading and unloading the aircraft, including provision and implementation of necessary means, the transport of passengers and crew members between the aircraft and the airport terminal as well as the carriage of baggage between the aircraft and the terminal; excluding activities coming under the responsibility of air navigation services;
- e) assistance to aircraft start and provision of appropriate means;
- f) aircraft moving upon departure and arrival, provision and implementation of necessary means;
- g) transport, loading in the aircraft and unloading of food and drinks.

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6. The "aircraft cleaning and servicing" assistance shall include:
- a) internal and external cleaning of the aircraft, the washroom service, the water service;
 - b) cabin air-conditioning and heating;
 - c) cabin arrangement with necessary equipment, stocking of such equipment.
7. The "fuel and oil" assistance shall include:
- a) organization and filling up fuel tank and fuel trade-in, including stocking, control of the quality and quantity of goods /items delivered;
 - b) Oil filling-up and other liquid ingredients.
8. The "on line maintenance" shall include:
- a) regular operations carried out before flight;
 - b) specific operations, as per the user's request ;
 - c) provision and management of parts and maintenance equipment;
 - d) request or reservation of a parking point and/or shed for maintenance purposes.
9. The "air operations and crew management" assistance shall include:
- a) flight preparation at the departing airport or any other place;

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- b) in-flight assistance, including in-flight change of itinerary, where necessary;
 - c) after flight services;
 - d) crew management.
10. The "ground transport" assistance shall include:
- a) organizing and carrying passengers, crew members, baggage, freight and mail between various terminals of the same airport but excluding any transport between the aircraft and any other point within the perimeter of the same airport;
 - b) any special transport as requested by the user.
11. The "catering service" assistance shall include:
- a) liaison with service providers and administrative management;
 - b) stocking food, drinks and accessories for their preparation;
 - c) accessory cleaning;
 - d) preparation and delivery of foodstuff and equipment.

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[Handwritten signature]

H. E. Thomas Boni YAYI
President of the Republic of Benin

[Handwritten signature]
H. E. Blaise COMPAORE
President of Burkina Faso

H.E. Jose Maria Pereira NEVES
Prime Minister and Head of the Government,
of the Republic of Cape Verde

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

[Handwritten signature]
H. E. Abdou KOLLEY
Minister of Fisheries, Water Resources
and National Assembly Matters
for and on behalf of the President
of the Republic of The Gambia

[Handwritten signature]
H.E. Alhaji Muhammad MUMUNI
Minister of Foreign Affairs and Regional Integration
for and on behalf of the President
of the Republic of Ghana

[Handwritten signature]
H.E. Alpha CONDE
President of the Republic of Guinea

[Handwritten signature]
H.E. Raimundo PEREIRA
Interim President of the Republic of Guinea Bissau

[Handwritten signature]
H. E. Mrs. Ellen JOHNSON-SIRLEAF
President of the Republic of Liberia

[Handwritten signature]
H. E. Badara Aliou MACALOU
Minister of African Integration and Malians Abroad,
and on behalf of the President of the Republic of Mali

[Handwritten signature]
H.E. Issoufou MAHAMADOU
President of the Republic of Niger

[Handwritten signature]
H. E. Goodluck Ebele JONATHAN, GCFR
President of the Federal Republic of Nigeria,
Chairman of the Authority of Heads of State
and Government of ECOWAS

[Handwritten signature]
H.E. Mamadou NDIAYE
Ambassador, Director of Cabinet to the Minister
of Foreign Affairs, for and on behalf of the President
of the Republic of Senegal

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

[Handwritten signature]
H. E. Elliott OHIN
Minister of Foreign Affairs and Cooperation,
for and on behalf of the President of the Togolese Republic

**COMUNIDAD DOS ESTADOS DA
AFRICA DO OESTE**

**COMMUNAUTE ECONOMIQUE DES
ETATS DE L'AFRIQUE DE L'OUEST**



**ECONOMIC COMMUNITY OF
WEST AFRICAN STATES**

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Abuja, 16 to 17 February 2012

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ON THE PROPOSAL of the Meeting of Transport Ministers held in Yamoussoukro on the 17 September 2011;

HAVING received the opinion of the ECOWAS Parliament;

- a) air carriers represent more than half of the movements at an airport and/or when the airport authorities consider its capacity as insufficient as compared to the movements performed at certain periods of the week or day; or
- b) new entrants experience serious difficulties in securing slot allocations at certain periods of the week/day; or
- c) a member State deems it appropriate.
In these circumstances it shall ensure that an in-depth study on the airport capacity be conducted soonest.

Article 4: Airport Slots Coordinator

1. The Member State in charge of a coordinated airport shall, appoint an individual or legal entity from the Civil Aviation Authority experienced

in coordinating the planning of the aircraft movements of air carriers and be designated as airport coordinator, after consultation or in agreement with the air carriers using regularly the airport, their representative organizations as well as the airport authorities. The same coordinator may be designated for several airports.

2. The Member State shall ensure that the coordinator discharges in an independent way the functions as provided for in the present Supplementary Act.
3. The coordinator shall act in compliance with the present Supplementary Act, in a neutral, transparent and non-discriminatory way.
4. The coordinator shall be responsible for slot allocations and the development of emergency procedures for slot allocations where necessary.
5. The coordinator shall monitor the use of slot allocations.
6. When slot allocations are granted, the coordinator shall prepare a report which shall be circulated to all concerned parties.

Article 5: Airport Slots Coordination Committee

1. Member States shall ensure that, at any coordinated airport, an Airport Slots Coordination Committee, chaired by the Civil Aviation Authority or administration is established for the purpose of assisting, in an advisory capacity, the coordinator referred to in Article 4 above.
2. The participation in such a Committee shall remain open, at least to air carriers and/or representative organizations and other airport users that regularly operate in the airport, concerned airport authorities and air traffic control's representatives.
3. The duties of the Airport Slots Coordination Committee shall, inter alia, be to advise on the:

a) possibilities to increase the determined capacity in compliance with the provisions of Article 6 below;

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- c) ways and means to enhance the traffic conditions at the airport concerned;
- c) examination of claims with respect to slot allocations in compliance with paragraph 4 of Article 8 below;
- c) development of monitoring methods regarding the effective use of slot allocations.
- e) imparting orientations regarding slot allocations bearing in mind local conditions;
- f) analysis of the problems encountered by new entrants.

Article 6: Operational Capacity of an Airport

In an airport where slot allocation takes place, the relevant authorities shall determine based on generally accepted methods the available capacity for slot allocation purposes in cooperation with the representatives of air traffic control, the airport authorities, customs, immigration authorities, air carriers who operate and/or their representative organizations as well as the airport slots coordinator twice a year.

Article 7: Information for the Airport Slots Coordinator

The air carriers that operate or contemplate to operate air traffic rights to and from a coordinated airport shall supply the coordinator with relevant information, as requested by the coordinator.

Article 8: Procedures for Airport Slot Allocation

1. a) An air carrier applying for a slot allocation shall send the request to the Coordinator
- b) An air carrier that has operated a slot as cleared by the coordinator may claim the same slot as a priority in the next equivalent scheduling period.
- c) When all the slot requests cannot be satisfied, preference should be given to commercial air services and in particular to scheduled services and programmed non-scheduled services.
- d) When a new entrant presents its first request for slots at a

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coordinated airport this demand shall be treated as a request for new slots. The Coordinator shall examine it taking into consideration the total requests already presented and shall ensure that this new request be satisfied at least in part in order to permit this new entrant to offer its services in addition to the existing ones.

2. If a requested slot cannot be satisfied, the coordinator shall inform the requesting air carrier of the reasons thereof and shall indicate the nearest alternative slot.
3. Slots may be freely exchanged between air carriers or transferred by an air carrier from one route, or type of service, to another, by mutual agreement or as a result of a total or partial takeover, or unilaterally. Any such exchanges or transfers shall be transparent in accordance with article 3(2) above, and subject to prior approval by the coordinator confirming that the transaction is feasible and that it will not prejudice the airport operations.
4. Where there are complaints about the allocation of slots, the coordination committee shall consider the matter and may make proposals to the coordinator in an attempt to resolve the problems.
5. If the problems cannot be resolved after consideration by the coordination committee, the Member State concerned shall decide on the matter in a fair manner taking into consideration the different restrictions.
6. An air carrier that has not used a slot as allocated to it for at least fifty percent (50%) over a period of six (6) months loses the priority of allocation for the next equivalent scheduling period.

Article 9: Reciprocity

1. Whenever it appears that a third country, with respect to the allocation of slots at airports:
 - a) does not grant ECOWAS air carriers treatment comparable to that granted by member States to air carriers from that country; or
 - b) does not grant ECOWAS air carriers de facto national treatment; or
 - c) grants air carriers from other third countries more favourable treatment than ECOWAS air carriers.

Appropriate action could be initiated aimed at correcting the situation with respect to airport(s) concerned, namely through a full or partial suspension of obligations under this Supplementary Act with regard to an air carrier of that third country in compliance with applicable law.

2. Member States shall inform the ECOWAS Commission of any difficulties experienced de jure or de facto, in the slot allocation exercise at third countries.

Article 10: Report and cooperation

1. Member States and the Commission shall cooperate in the enforcement of these Supplementary Acts. Information obtained through the enforcement of this Supplementary Act shall be treated as confidential.
2. The ECOWAS Commission shall present a report to the Council on the enforcement of the Supplementary Act every two (2) years after their entry into force.
3. The ECOWAS Commission shall enter into cooperation with other international organizations for the purpose of implementing the present Supplementary Act.

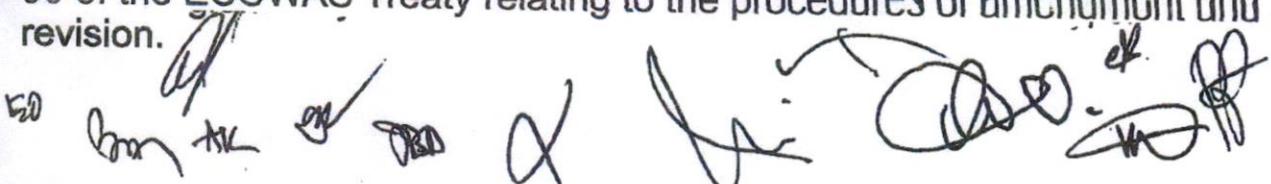
Article 11: Implementation of the Supplementary Act

1. The member States shall take all necessary legislative and regulatory measures for effective implementation of the present Supplementary Act.
2. The ECOWAS member States shall communicate to ECOWAS Commission any measures concerning the implementation of the present Supplementary Act.

Article 12: Amendments

1. Any Member State may submit proposal for amendment or revision of this Supplementary Act to the ECOWAS Commission.

Such proposed amendment shall be subject to the provisions of article 90 of the ECOWAS Treaty relating to the procedures of amendment and revision.

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Article 13: Entry into Force and Publication

1. This Supplementary Act shall enter into force from the date of its signature by the Authority of the Heads of State and Government of ECOWAS.
2. It shall be published in the Official journal of the Community, within thirty (30) days of its signature by the the Authority of the Heads of State and Government of ECOWAS.

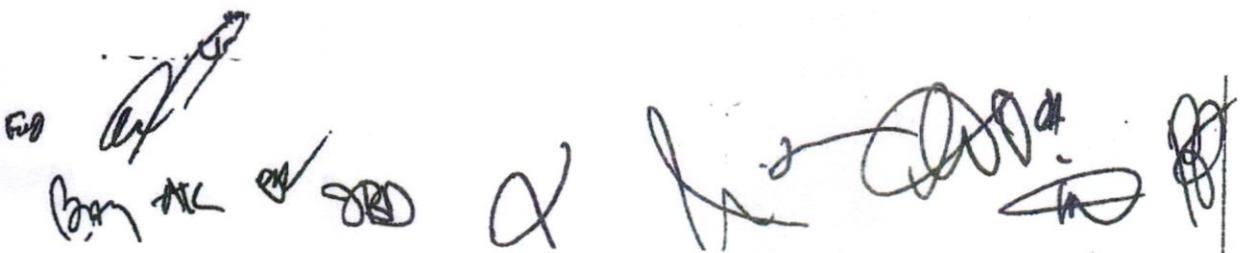
Article 14: Depositary Authority

This Supplementary Act shall be deposited at the Commission which shall transmit certified copies thereof to all member States and register same with the African Union (AU), the International Civil Aviation Organization (ICAO) and such other organizations as may be decided by the Council.

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

DONE IN ABUJA, THIS 17th DAY OF FEBRUARY 2012

**IN SINGLE ORIGINAL, IN THE ENGLISH, FRENCH AND
PORTUGUESE LANGUAGES, ALL THREE TEXTS BEING EQUALLY
AUTHENTIC**

A series of handwritten signatures in black ink, representing the Heads of State and Government of the member states of ECOWAS. The signatures are arranged horizontally across the bottom of the page.



H. E. Thomas Boni YAYI
President of the Republic of Benin

H. E. Blaise COMPAORE
President of Burkina Faso

H.E. Jose Maria Pereira NEVES
Prime Minister and Head of the Government,
of the Republic of Cape Verde

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

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Minister of Fisheries, Water Resources
and National Assembly Matters
for and on behalf of the President
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**COMUNIDAD DOS ESTADOS DA
AFRICA DO OESTE**

**COMMUNAUTE ECONOMIQUE DES
ETATS DE L'AFRIQUE DE L'OUEST**



**ECONOMIC COMMUNITY OF
WEST AFRICAN STATES**

**FORTIETH ORDINARY SESSION OF THE HEADS OF STATE AND
GOVERNMENT OF THE ECOWAS MEMBER STATES**

Abuja, 16 to 17 February 2012

**SUPPLEMENTARY ACT A/SP.7/02/12 RELATING TO THE COMMON
RULES ON COMPENSATION TO PASSENGERS IN THE EVENT OF
DENIED BOARDING, CANCELLATION OR MAJOR DELAY OF
FLIGHTS IN ECOWAS MEMBER STATES**

THE HIGH CONTRACTING PARTIES,

MINDFUL of articles 7, 8 and 9 of ECOWAS revised Treaty as amended establishing the Authority of Heads of State and Government and defining its composition and functions;

MINDFUL of article 32(1)(f) of the said Treaty which prescribes that Member States encourage co-operation in flight scheduling, leasing of aircraft and granting joint use of fifth freedom rights to airlines in the region;

MINDFUL of the Supplementary Act A/SA1/2/08 particularly article 4 adopting the Community Competition Rules and the Modalities of their application within ECOWAS;

MINDFUL of Decisions A/DEC.7/7/96 and A/DEC.6/12/03 of the Authority of Heads of State and Government on the conclusion of a Multilateral Air Transport Agreement among Member States and the Liberalization of the Air Transport Sector in West Africa respectively;

RECALLING the Convention on International Civil Aviation signed at Chicago, on the 7th December 1944 and its annexes;

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MINDFUL of the Decision relating to the implementation of the Yamoussoukro Declaration concerning the liberalization of Access to Air Transport Markets in Africa adopted on the 14th of November 1999 by the African Ministers in charge of civil aviation; and endorsed by the OAU Heads of State in Lome, Togo, in July 2000;

MINDFUL also of the Memorandum of Understanding (MOU) on the implementation of the Decision on the Liberalization of Air Transport in West and Central Africa signed by 23 States of West and Central Africa on 14 November 1999;

ACKNOWLEDGING that the reports of the 3rd, 4th and 5th Meetings of Ministers responsible for Civil Aviation in West and Central Africa, noted some discrepancies in national rules and regulations concerning Slot Allocation, Denied Boarding, Ground Handling, Approval of Airline, Conditions for Market Access, Air Tariffs, Liability of Airline in case of an Accident, Rules of Competition and Exemption issued by the member States in West and Central Africa;

CONSIDERING that such disparities contradict the spirit and objectives of the Yamoussoukro Decision;

DETERMINED to address the disparities and to harmonize national legislations and regulations in matters of Air Transport Services;

DESIROUS to adopt a Common Community legal framework on Compensations for Passengers Denied Boarding, Cancellation or Major Delay of a Flight in ECOWAS Member States;

ON THE PROPOSAL of the Meeting of Transport Ministers held in Yamoussoukro on the 17 September 2011;

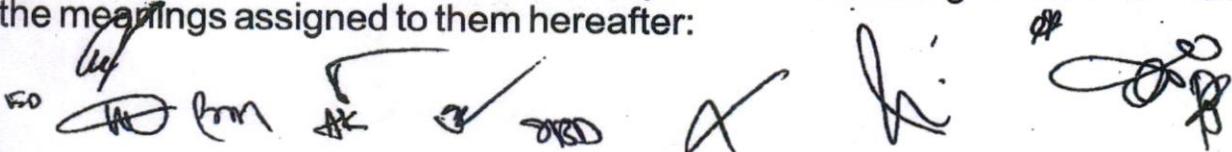
HAVING received the opinion of the ECOWAS Parliament;

ON THE RECOMMENDATION of the Sixty-Seventh Session of the Council of Ministers held in Abuja, from 19 to 21 December 2011.

HEREBY AGREE AS FOLLOWS

Article 1: Definitions

For the purpose of this Supplementary Act, the following terms shall have the meanings assigned to them hereafter:

A series of approximately ten handwritten signatures in black ink, arranged horizontally across the page. The signatures vary in style and length, representing the signatories to the document.

Aeronautical Authority: any governmental authority, corporate body, or organ duly authorised to perform the functions of civil aviation;

Air carrier: An air transport enterprise operating air traffic rights to, from and within member States;

Community: The Economic Community of West African States as referred to in article 2 of the ECOWAS Revised Treaty;

Confirmed reservation: The fact that an air ticket sold by the air carrier or its authorized agent, specifies the flight number, date and time, and; contains at the appropriate box the indication "OK" or any other indication or means by which the air carrier acknowledges that it has accepted and expressly confirmed the reservation;

Council: Council of Ministers as established under article 10 of ECOWAS revised Treaty;

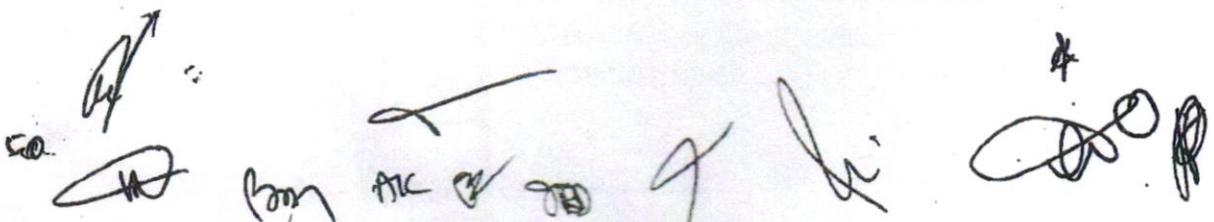
Denied boarding : Refusal by the air carrier to board passengers who, altogether, have a valid air ticket, a confirmed reservation for the concerned flight and have presented themselves to the check-in within the required conditions and time limits;

ECOWAS Commission: ECOWAS Commission established in article 17 of the ECOWAS Revised Treaty as amended in June 2006;

Final destination: Destination shown on the air ticket presented at check-in, or in case of successive flights, the last flight of the passenger. Connecting flights that could be performed without any difficulty even if the denied boarding resulted in a delay shall not be taken into consideration;

Member State: A State party to the ECOWAS Revised Treaty;

Overbooked flight: A flight on which the number of passengers with a confirmed reservation and present at check-in within the required time limit and conditions is higher than the number of available seats;

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Scheduled flight: A flight performed, subject to payment, with aircraft to carry passengers, freight and/or mail in such conditions that on each flight, individual seats are made available to the public, either directly by the air carrier, or by its authorized agents. It is organized for the purpose of connecting two airports or more either according to a published schedule or with such a regularity or frequency that it becomes part of an obvious systematic series;

Volunteer: A person who, having a confirmed reservation and present at check-in within the required time limit and conditions, is willing to give up, at the air carrier's request, the said reservation in return for compensation.

Article 2: Scope

1. The present Supplementary Act establishes the minimum legal provisions applicable to Air Carriers and passengers in ECOWAS member States.
2. It defines and specifies the minimum rights of passengers when they are denied boarding, their flight is cancelled or delayed of a flight in ECOWAS Member States.
3. It also determines the modalities for compensation for any prejudice suffered by any passengers in ECOWAS member States regardless of the nationality of air carrier.

Article 3: Boarding rules

1. The air carrier shall determine the rules governing the boarding of passengers in the event of an overbooked flight. It shall notify such rules and their possible amendments to the concerned Aeronautical Authorities, and ECOWAS Commission, which will make them available to other member States. Such amendments, if any, shall enter into force one month after their notification by the air carriers.
2. The rules referred to in paragraph 1 above shall be made available to the public in the sales offices and check-in desks of the air carrier in a visible, accessible and readable way.
3. The rules referred to in paragraph 1 above shall provide for a call for volunteers willing to give up boarding.



4. In any event, the air carrier operating in ECOWAS member States shall take into consideration the interests of the passengers who must be given boarding priority for legitimate reasons, such as persons with limited mobility and unaccompanied minors.

Article 4: Compensations in the event of denied boarding

1. In the event of denied boarding, the passenger shall be free to choose one of the following compensations:
 - a) refund without any penalty of the air fare as soon as possible for the non-performed portion of the trip;
 - b) re-routing as soon as possible to the final destination or;
 - c) re-routing at a later date as the passenger deems convenient.
2. Irrespective of the passenger's choice in paragraph 1 above, the air carrier shall pay, immediately after the denied boarding, a minimum compensation equal to:
 - a) Fifty (50) U.S dollars to an Economy Class passenger and one hundred (100) U.S dollars to a Business Class passenger for flights less than two thousand five hundred (2,500) kilometers;
 - b) Two hundred (200) U.S dollars to an Economy Class passenger and four hundred (400) U.S dollars to a Business Class passenger for flights of two thousand five hundred (2,500) kilometres or more, based on the final destination shown on the air ticket.
3. When the carrier offers re-routing to the final destination on a flight whose arrival time does not exceed by three (3) hours the arrival time of the flight initially booked in the case of connections of less than two thousand five hundred (2,500) kilometres and by five hours in the case of connections of more than two thousand five hundred (2,500) kilometers, compensations provided for in paragraph 2 above may be reduced by the air carriers by half.
4. Distances set forth in paragraphs 2 and 3 of this article are measured based on the method of the great circle distance or orthodromic route.
5. In any event, compensation amounts shall be limited to the air fare corresponding to the final destination. Compensations shall be paid in cash or, with the passenger's consent, in travel vouchers and/or other services.

6. In the event of an overbooked flight, if a passenger accepts to travel in a class lower than that for which the ticket was bought, the passenger shall be entitled to a refund of 50% of the full fare.
7. The air carrier shall not be compelled to pay any compensation for denied boarding when a passenger travels with a free ticket or at discount fares not available to the public, directly or indirectly.
8. The air carrier shall not be compelled to pay any compensation when a passenger is denied boarding for reasons such as health, safety or security, or inadequate travel documentation.

Article 5: Compensation in the context of a package tour

In case of denied boarding on a flight sold as part of a package tour, the air carrier must compensate the tour operator who shall, thereupon, compensate the passenger.

Article 6: Compensation in case of a cancelled flight

In case of a cancelled flight, the following provisions shall apply, except if the air carrier or the tour operator demonstrates that such a decision was due to circumstances for which neither its liability nor the subcontractor's liability is involved:

- a) When, prior to the scheduled initial departure time, an air carrier or a tour operator cancels or expects the need to cancel a flight, it shall do its utmost to contact all concerned passengers and agree with them the conditions on which they would accept to give up their confirmed reservation. At the bare minimum, passengers should have the choice between:
 - i the full refund of the air fare, at the price the ticket was bought for the non-performed portion(s) of the trip and for the portion(s) of the trip already performed and which became useless in relation to their initial travel plan as well as a return flight to their initial point of departure as soon as possible ;
 - ii. re-routing soonest to their final destination, in comparable travel conditions, or
 - iii. re-routing to their final destination in comparable travel conditions at a suitable date.
- b) For passengers with whom the carrier or the tour operator could not reach an agreement in accordance with the provisions in paragraph 1 above and who presented themselves to check-in in compliance with

the provisions of Article 3, paragraph 1 above, a compensation shall be offered to them as well as assistance in case of denied boarding, as set forth in Articles 4 and 5 above.

Article 7: Compensation in the event of a major delay

1. When an air carrier or a tour operator reasonably expects that a flight will be delayed, with regard to the scheduled initial departure by three hours at least for flights of less than 2,500 kilometres and by five hours at least for flights of two thousand five hundred (2,500) kilometres or more, assistance referred to in Article 8 below shall be offered to passengers.
2. In any event, such assistance shall be proposed at the latest within three hours following the scheduled departure time for a flight of less than two thousand five hundred (2,500) kilometres and at the latest within five hours following the scheduled initial departure time in the case of a flight of two thousand five hundred (2,500) kilometres or more.
3. When an air carrier or tour operator reasonably expects that a flight will be delayed by three hours or more with respect to the scheduled initial departure time, it shall offer immediately to disabled passengers and their accompanying persons as well as other passengers with limited mobility and unaccompanied children the necessary assistance in compliance with the provisions of Article 8 below as well as any other form of assistance necessary for and meeting the specific needs of these passengers.

Article 8: Other compensations

1. In addition to minimum compensations set forth in Article 4 above, the air carrier shall further offer, free of charge, to passengers who were denied boarding:
 - a) the cost of a telephone call and/or telex/fax message or e-mail to the place of destination;
 - b) the possibility to get enough food to eat bearing in mind the waiting time,
 - c) hotel accommodation in the event passengers are delayed for one or several nights.
2. When a city or region has several airports and an air carrier proposes to a passenger who was denied boarding, to board a flight to an airport other than the airport reserved by that passenger, the travel expenses between the substitution airports or to a closer substitution destination as agreed with the passenger, shall be borne by the air carrier.

Article 9: Information to passengers

Air carriers shall provide each passenger who was denied boarding, victim of a

flight cancellation or major flight delay, with a leaflet containing the rules governing financial compensations.

Article 10: Other remedial actions

1. The provisions of the Supplementary Act shall apply without prejudice to any civil liability proceedings that could be instituted by the passenger before the appropriate courts/jurisdictions.
2. Paragraph 1 above shall not apply to volunteers as defined in Article 1 above, who accepted to receive compensation pursuant to rules set out in Article 4 above.

Article 11: Report and cooperation

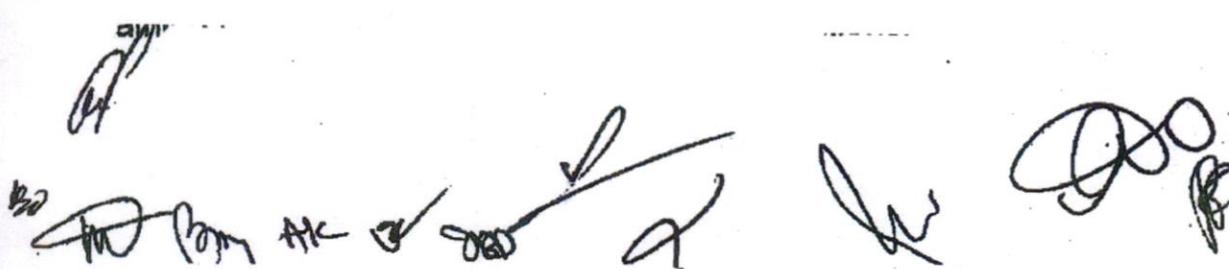
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2. The ECOWAS Commission shall present a report to the Council on the enforcement of the Supplementary Act every two (2) years after their entry into force.
3. The ECOWAS Commission shall enter into cooperation with other international organizations for the purpose of implementing the present Supplementary Act.

Article 12: Implementation of the Supplementary Act

1. The member States shall take all necessary legislative and regulatory measures for effective implementation of the present Supplementary Act.
2. The ECOWAS member States shall communicate to ECOWAS Commission any measures concerning the implementation of the present Supplementary Act.

Article 13: Amendments

1. Any Member State may submit proposal for amendment or revision of this Supplementary Act to the ECOWAS Commission.
2. Such proposed amendment shall be subject to the provisions of article 90 of the ECOWAS Treaty relating to the procedures of amendment and revision.



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Article 14: Entry into Force and Publication

1. This Supplementary Act shall enter into force from the date of its signature by the Authority of the Heads of State and Government of ECOWAS.
2. It shall be published in the Official journal of the Community, within thirty (30) days of its signature by the Authority of the Heads of State and Government of ECOWAS.

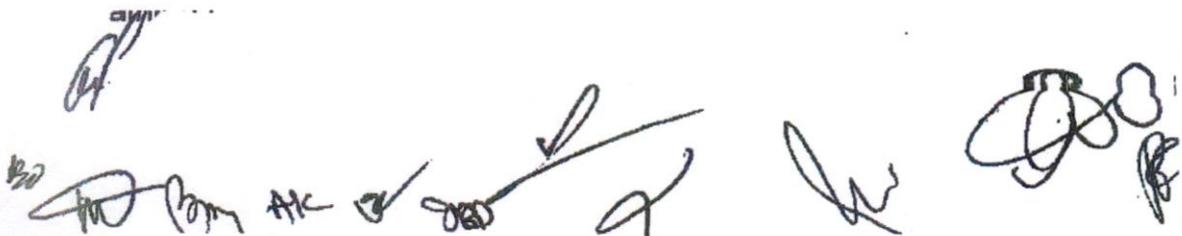
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**IN FAITH OF WHEREOF, WE, THE HEADS OF STATE AND
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HAVE SIGNED THIS SUPPLEMENTARY ACT**

DONE IN ABUJA, THIS 17th DAY OF FEBRUARY 2012

**IN SINGLE ORIGINAL, IN THE ENGLISH, FRENCH AND
PORTUGUESE LANGUAGES, ALL THREE TEXTS BEING EQUALLY
AUTHENTIC**





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President of the Republic of Benin

H. E. Blaise COMPAORE
President of Burkina Faso

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**COMUNIDAD DOS ESTADOS DA
AFRICA DO OESTE**

**COMMUNAUTE ECONOMIQUE DES
ETATS DE L'AFRIQUE DE L'OUEST**



**ECONOMIC COMMUNITY OF
WEST AFRICAN STATES**

**FORTIETH ORDINARY SESSION OF THE HEADS OF STATE AND
GOVERNMENT OF THE ECOWAS MEMBER STATES**

Abuja, 16 to 17 February 2012

**SUPPLEMENTARY ACT A/SP.5/02/12 RELATING TO THE COMMON
RULES ON AIR CARRIER LIABILITY IN CASE OF ACCIDENT IN
ECOWAS MEMBER STATES**

THE HIGH CONTRACTING PARTIES,

MINDFUL of articles 7, 8 and 9 of ECOWAS revised Treaty as amended establishing the Authority of Heads of State and Government and defining its composition and functions;

MINDFUL of article 32(1)(f) of the said Treaty which prescribes that Member States encourage co-operation in flight scheduling, leasing of aircraft and granting joint use of fifth freedom rights to airlines in the region;

MINDFUL of the Supplementary Act A/SA1/2/08 particularly article 4 adopting the Community Competition Rules and the Modalities of their application within ECOWAS;

MINDFUL of Decisions A/DEC.7/7/96 and A/DEC.6/12/03 of the Authority of Heads of State and Government on the conclusion of a Multilateral Air Transport Agreement among Member States and the Liberalization of the Air Transport Sector in West Africa respectively;

RECALLING the Convention on International Civil Aviation signed at Chicago, on the 7th December 1944 and its annexes;

RECALLING the Montreal Convention for the Unification of Certain Rules relating to International Carriage signed at Montreal 25 May 1999;

MINDFUL of the Decision relating to the implementation of the Yamoussoukro Declaration concerning the liberalization of Access to Air Transport Markets in Africa adopted on the 14th of November 1999 by the African Ministers in charge of civil aviation; and endorsed by the OAU Heads of State in Lome, Togo, in July 2000;

MINDFUL also of the Memorandum of Understanding (MOU) on the implementation of the Decision on the Liberalization of Air Transport in West and Central Africa signed by 23 States of West and Central Africa on 14 November 1999;

ACKNOWLEDGING that the reports of the 3rd, 4th and 5th Meetings of Ministers responsible for Civil Aviation in West and Central Africa, noted some discrepancies in national rules and Supplementary Acts concerning Slot Allocation, Denied Boarding, Ground Handling, Approval of Airline, Conditions for Market Access, Air Tariffs, Liability of Airline in case of an Accident, Rules of Competition and Exemption issued by the member States in West and Central Africa;

CONSIDERING that such disparities contradict the spirit and objectives of the Yamoussoukro Decision;

DETERMINED to address the disparities and to harmonize national legislations and regulations in matters of Air Transport Services;

DESIROUS to adopt a Common Community legal framework on Air Carrier Liability in Case of an Accident in ECOWAS Member States;

ON THE PROPOSAL of the Meeting of Transport Ministers held in Yamoussoukro on the 17 September 2011;

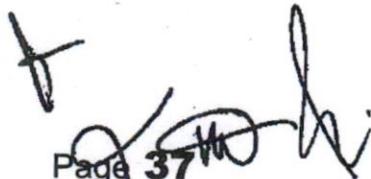
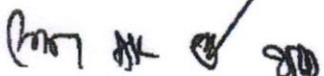
HAVING received the opinion of the ECOWAS Parliament;

ON THE RECOMMENDATION of the Sixty-Seventh Session of the Council of Ministers held in Abuja, from 19 to 21 December 2011.

HEREBY AGREE AS FOLLOWS

Article 1: Definitions

For the purpose of this Supplementary Act, the following terms shall have the meanings assigned to them hereafter:-



Accident: Event connected with the use of an aircraft which occurs from the time a person boards an aircraft with the intent to travel and the time all the persons who boarded an aircraft with the same intent disembarked and during which:

- a. a person is fatally or seriously injured due to the fact that the person is:
 - i. on board of an aircraft, or
 - ii. in direct contact with any part of the aircraft, including parts that came apart, or
 - iii. directly exposed to engine blast, except for lesions resulting from natural causes or when a person wounded himself/herself or in case a person is wounded by others or injuries to a stowaway hidden outside the areas generally accessible to passengers and crew members, or
- b. the aircraft suffers damage or structural breaking up:
 - i. which impairs its characteristics of structural resistance, performance or flying capacity, and
 - ii. which should normally require major repair or replacement of the damaged component, apart from an engine breakdown or damage to the engine when damage is limited to the engine, its overturning or accessories or damage limited to propellers, wing ends, antenna, pneumatics, brakes, wheel spats or small cuts or surface perforations
- c. the aircraft disappeared or is totally inaccessible;

Aeronautical Authority: any governmental authority, corporate body, or organ duly authorised to perform the functions of civil aviation;

Air carrier: an air carrier holding a valid approval issued by a member State in compliance with the provisions of the Supplementary Act relating to air carrier's approval;

Commercial agreement: an agreement, other than an agency agreement, made between carriers and relating to the provision of their joint services for carriage of passengers by air.

Community: The Economic Community of West African States as referred to in article 2 of the ECOWAS Revised Treaty;

Council: Council of Ministers as established under article 10 of ECOWAS revised Treaty

ECOWAS Commission: ECOWAS Commission established in article 17 of the ECOWAS Revised Treaty as amended in June 2006;

Member State: A State party to the ECOWAS Revised Treaty;

Montreal Convention: Convention for the Unification of Certain Rules relating to International Carriage signed at Montreal 25 May 1999;

Person entitled to compensation: the traveller or any person eligible for compensation with respect to the said traveller in compliance with the applicable law;

Principal and permanent residence: the one fixed and permanent abode of the passenger at the time of the accident. The nationality of the passenger shall not be the determining factor in this regard.

SDR: Special Drawing Rights as defined by the International Monetary Fund;

Warsaw Convention: Convention for the unification of certain rules on international air transport signed in Warsaw on 12 October 1929 modified by the Protocol signed at the Hague on 28 September 1955, supplemented by the Convention signed in Guadalajara on 18 September 1961, and modified by additional Protocols Nos.1 and 2 and the Montreal Protocol No.4 signed in Montreal on 25 September 1975

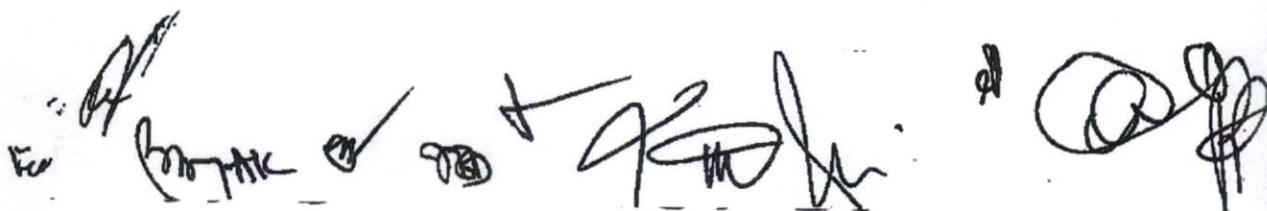
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Article 2: Scope

1. This Supplementary Act shall determine air carriers' obligations as regards to their liability with respect to passengers for the prejudice suffered during accidents, in case of death, injury or any other corporal lesions to a passenger whenever the accident which caused the prejudice occurred on board of an aircraft or during an embarkation or disembarkation operation in the Community's territory.
2. Furthermore, this Supplementary Act shall determine the requirements with respect to the information to be provided by air carriers to users.

Article 3: Liability level

1. An air carrier's liability for damage suffered in case of death, or bodily injury as a result of an accident during carriage by air shall not be the subject of financial limitation even if such limitation is determined by legislation, Convention or contract.
2. The insurance obligation set forth in Article 7 of the Supplementary Act establishing common rules on approval of air carriers in ECOWAS Member States relating to air carrier's approval means that any air carrier should take out insurance adequate to cover its liability set forth in paragraph 3 below and beyond for a reasonable amount.
3. The air carrier's liability shall exclude damage referred to in paragraph 1 above when the damage is higher than 100,000 Special Drawing Rights per passenger if it demonstrates:
 - a) that the damage is not caused by its negligence or any other action or oversight on the part of the carrier, its employees or agents; or
 - b) that the damage results from the negligence or any other detrimental action or oversight attributable to a third party.

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4. The air carrier shall automatically apply the rules of the operator's country of origin whenever the provisions of such rules are more favourable to persons entitled to compensation than those provided for in this Supplementary Act and article 5 below.

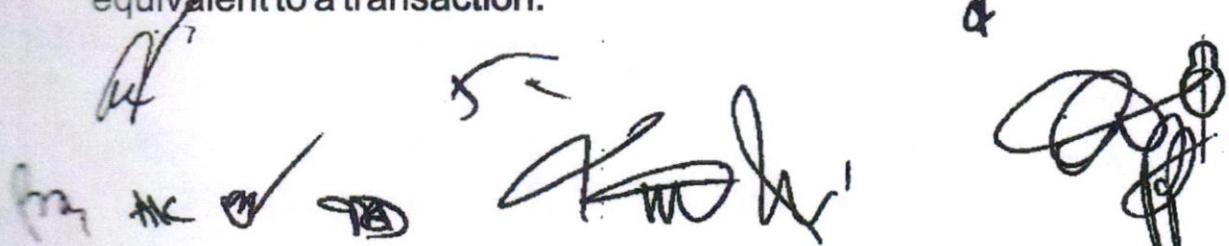
Article 4: Mutual liability / air carrier's recourse

In case of death, or bodily injury to a passenger caused by an accident, no provision of this Supplementary Act shall be interpreted as:

- a) designating the air carrier as the only party liable for damages; or
- b) limiting an air carrier's right to claim compensation from a third party in compliance with existing law.

Article 5: Advance payment

1. With all due diligence and in any event within fifteen (15) days after the person entitled to compensation has been identified, the air carrier shall pay to that person or his/her eligible party an advance payment that would enable him/her to meet his/her immediate needs, in proportion to the material prejudice suffered.
2. Without prejudice to paragraph 1 above, such an advance shall not be higher than 15,000 SDR per traveller in case of death.
3. An advance payment shall not constitute recognition of liability and such an advance may be deducted from any amount paid at a later date in respect of the air carrier's liability; the advance cannot be refunded except for cases referred to in paragraph 2 of Article 3 above or when it has been demonstrated later that the fault of the person to whom the advance was paid is the cause of the damage suffered or has contributed to it or the person was not entitled to compensation. However, accepting such an advance is not equivalent to a transaction.

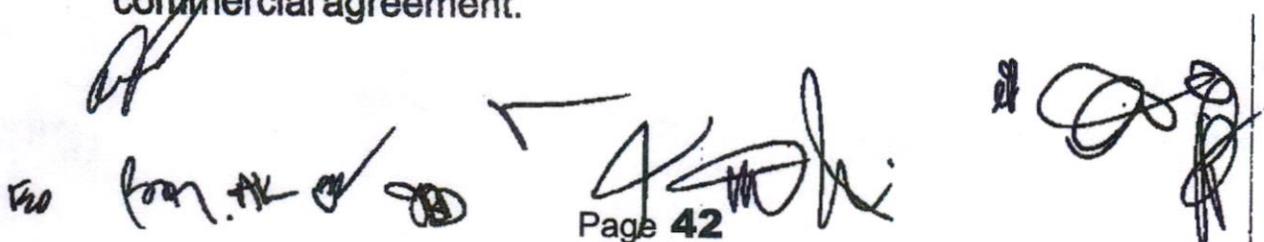
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Article 6: Information to travellers

1. Provisions of Articles 3 and 5 above shall appear in the conditions of contract of the air carrier.
2. Adequate information on the provisions of Articles 3 and 5 above shall be provided to travellers, at their request, by the air carrier's agencies, by travel agencies, check-in desks and sales points. The transport document or any equivalent document shall have a summary of the rules drafted in simple and intelligible terms.
3. Air carriers who apply more favourable conditions to users than those in Articles 3 and 5 above shall inform clearly and expressly travellers at the time of buying air tickets in the carrier's agencies, travel agencies or check-in desks located on the territory of a Member State. Air carriers shall provide travellers with a leaflet specifying their conditions. The fact that the transport document or an equivalent document indicates only that liability is limited shall not be viewed as sufficient information.

Article 7: Competent jurisdiction

1. An action for damages must be brought, at the option of the plaintiff, in the territory of one of the Member States, either before the court of the domicile of the carrier or of its principal place of business, or where it has a place of business through which the contract has been made or before the court at the place of destination.
2. In respect of damage resulting from the death or injury of a passenger, an action may be brought before one of the courts mentioned in paragraph 1 of this Article, or in the territory of a Member State in which at the time of the accident the passenger has his or her principal and permanent residence and to or from which the carrier operates services for the carriage of passengers by air, either on its own aircraft or on another carrier's aircraft pursuant to a commercial agreement, and in which that carrier conducts its business of carriage of passengers by air from premises leased or owned by the carrier itself or by another carrier with which it has a commercial agreement.

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3. Questions of procedure shall be governed by the law of the court seized of the case.

Article 8: Legal action time limit

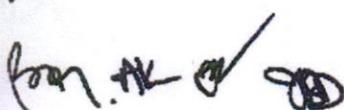
1. To avoid forfeiture, legal proceedings shall be instituted within two (2) years from the time of arrival at destination, or from the day the aircraft should have arrived or the day air transport ceased.
2. The mode of calculation of the time limit shall be determined by the court the matter was referred to.

Article 9: Report and cooperation

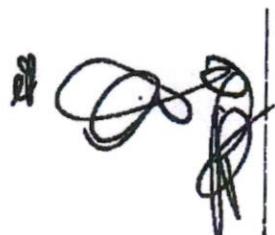
1. Member States and the ECOWAS Commission shall cooperate for the implementation of this Supplementary Act.
2. The ECOWAS Commission shall present a report to the Council on the enforcement of the Supplementary Act every two (2) years after their entry into force.
3. The ECOWAS Commission shall enter into cooperation with other international organizations for the purpose of implementing the present Supplementary Act.

Article 10: Implementation of the Supplementary Act

1. The member States shall take all necessary legislative and regulatory measures for effective implementation of the present Supplementary Act.
2. The member States shall communicate to ECOWAS Commission any measures concerning the implementation of the present Supplementary Act.



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Article 11: Amendments

Any Member State may submit proposal for amendment or revision of this Supplementary Act to the ECOWAS Commission in accordance with the provisions of article 90 of the ECOWAS Treaty relating to the procedures of amendment and revision.

Article 12: Entry into Force and Publication

1. This Supplementary Act shall enter into force from the date of its signature by the Authority of the Heads of State and Government of ECOWAS.
2. It shall be published in the Official journal of the Community, within thirty (30) days of its signature by the Authority of the Heads of State and Government of ECOWAS.

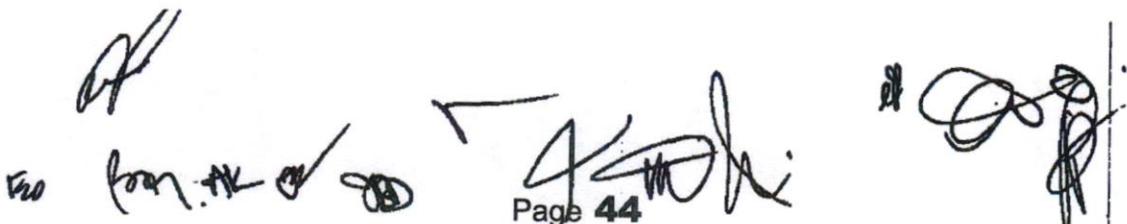
Article 13: Depositary Authority

This Supplementary Act shall be deposited at the Commission which shall transmit certified copies thereof to all member States and register same with the African Union (AU), the International Civil Aviation Organization (ICAO) and such other organizations as may be decided by the Council.

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

DONE IN ABUJA, THIS 17th DAY OF FEBRUARY 2012

**IN SINGLE ORIGINAL, IN THE ENGLISH, FRENCH AND
PORTUGUESE LANGUAGES, ALL THREE TEXTS BEING EQUALLY
AUTHENTIC**



**COMUNIDAD DOS ESTADOS DA
AFRICA DO OESTE**

**COMMUNAUTE ECONOMIQUE DES
ETATS DE L'AFRIQUE DE L'OUEST**



**ECONOMIC COMMUNITY OF
WEST AFRICAN STATES**

**FORTIETH ORDINARY SESSION OF THE HEADS OF STATE AND
GOVERNMENT OF THE ECOWAS MEMBER STATES**

Abuja, 16 to 17 February 2012

**SUPPLEMENTARY ACT A/SP.10/02/12 RELATING TO THE COMMON
RULES ON THE APPROVAL OF AIR CARRIERS OF ECOWAS
MEMBER STATES**

THE HIGH CONTRACTING PARTIES,

MINDFUL of articles 7, 8 and 9 of ECOWAS revised Treaty as amended establishing the Authority of Heads of State and Government and defining its composition and functions;

MINDFUL of article 32(1)(f) of the said Treaty which prescribes that Member States encourage co-operation in flight scheduling, leasing of aircraft and granting joint use of fifth freedom rights to airlines in the region;

MINDFUL of the Supplementary Act A/SA1/2/08 particularly article adopting the Community Competition Rules and the Modalities of their application within ECOWAS;

MINDFUL of Decisions A/DEC.7/7/96 and A/DEC.6/12/03 of the Authority of Heads of State and Government on the conclusion of a Multilateral Air Transport Agreement among Member States and the Liberalization of the Air Transport Sector in West Africa respectively;

RECALLING the Convention on International Civil Aviation signed at Chicago, on the 7th December 1944 and its annexes;

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MINDFUL of the Decision relating to the implementation of the Yamoussoukro Declaration concerning the liberalization of Access to Air Transport Markets in Africa adopted on the 14th of November 1999 by the African Ministers in charge of civil aviation; and endorsed by the OAU Heads of State in Lome, Togo, in July 2000;

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CONSIDERING that such disparities contradict the spirit and objectives of the Yamoussoukro Decision;

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DESIROUS to adopt a Common Community legal framework on the Approval of Air Carriers in ECOWAS Member States;

ON THE PROPOSAL of the Meeting of Transport Ministers held in Yamoussoukro on the 17 September 2011;

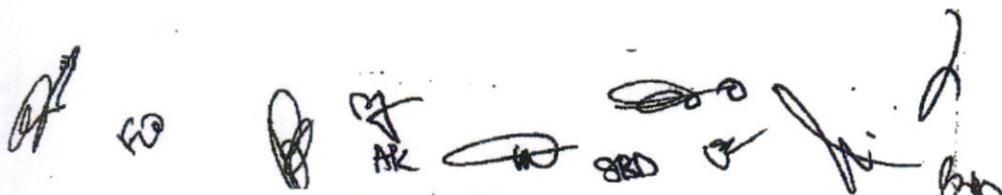
HAVING received the opinion of the ECOWAS Parliament;

ON THE RECOMMENDATION of the Sixty-Seventh Session of the Council of Ministers held in Abuja, from 19 to 21 December 2011.

HEREBY AGREE AS FOLLOWS

Article 1: Definitions

For the purpose of this Supplementary Act, the following terms shall have the meanings assigned to them hereafter:



Aerial work: In-flight activity during which an aircraft is used for specialized services such as agriculture, construction, photography, topography, observation and surveillance, search and rescue, aerial advertising;

Aeronautical Authority: Any governmental authority, corporate body or organ duly authorised to perform the function of civil aviation;

Air carrier: An air transport enterprise engaged in the provision of air transport by aircraft for hire or remuneration and holding a valid approval;

Air Operating Certificate (AOC) : Document issued to an enterprise by the Aeronautical Authority of an ECOWAS member State certifying that the concerned enterprise has the required professional and organizational capacities to operate aircraft safely for the purpose of conducting the air transport activities mentioned therein;

Approval: An administrative authorization granted to an enterprise by the Aeronautical Authority to carry by air passengers, freight and/or mail for consideration;

Chicago Convention: Convention on International Civil Aviation signed in Chicago on 7 December 1944 including all its annexes;

Community: The Economic Community of West African States as referred to in article 2 of the ECOWAS Revised Treaty;

Corporate plan: Detailed description of the commercial activities planned by the enterprise for the period under review, notably with respect to the evolution of the market and the investments contemplated, as well as the financial and economic implications of such activities;

Council: Council of Ministers as established under article 10 of ECOWAS revised Treaty;



ECOWAS Commission: ECOWAS Commission established in article 17 of the ECOWAS Revised Treaty as amended in June 2006;

Effective control: Relationship constituted by rights, contracts or any other means which, either separately or jointly and taking into account circumstances in law and specific cases, offer the possibility to exert directly or indirectly a decisive influence on an enterprise;

Enterprise: Individual or legal entity carrying out whether for profit or not profit air transport services;

Management accounts: Detailed description of income and expenditures for the period under review, including namely a breakdown between the aviation and the non aviation related income and expenditure;

Member State: A State party to the ECOWAS Revised Treaty

Montreal Convention: Convention for the Unification of Certain Rules relating to International Carriage signed at Montreal 25 May 1999 which replaced the Warsaw Convention of dated 12 October 1929 and its annexes.

Article 2: Scope

1. This Supplementary Act shall determine the criteria for the issuance and continuing validity by member States, of the approval of air carriers established in the territory of ECOWAS member States.
2. The air transport of passengers, freight or mail other than by aircraft as well as domestic air services not involving transportation between airports of two or more Member States and aerial work, shall not be covered by this Supplementary Act.

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Article 3: Air carrier's approval

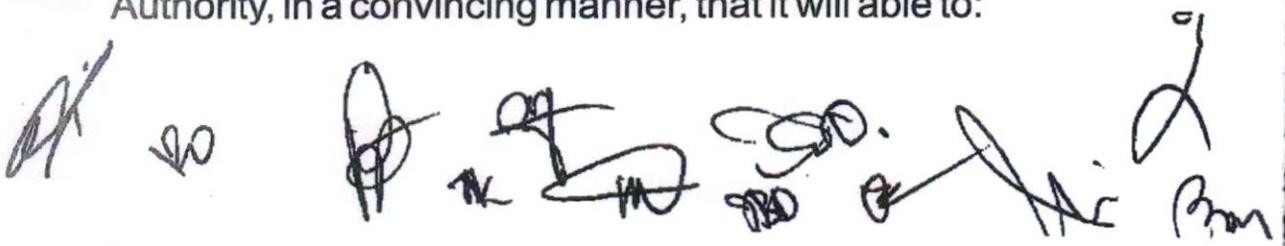
1. Without prejudice to paragraph 5 of Article 5 below, Member States shall not issue or maintain valid an air carrier's approval for commercial air services whenever the conditions established by this Supplementary Act are not adhered to.
2. Any enterprise meeting the conditions as determined in this Supplementary Act shall be entitled to an air carrier's approval.

Article 4: Conditions for the issuance of an air carrier's approval

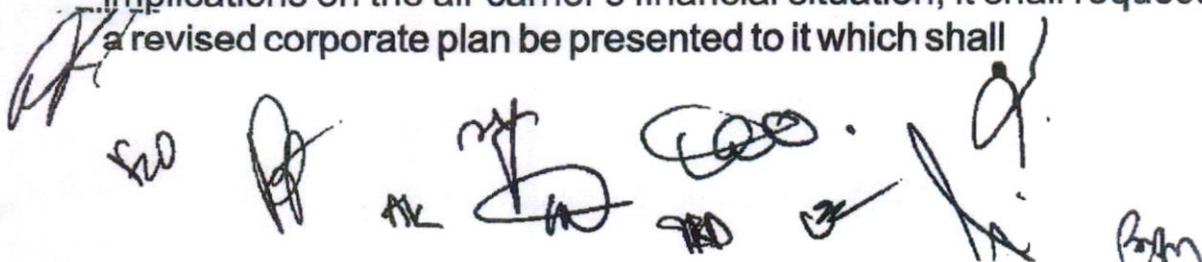
1. An Aeronautical Authority shall issue an approval to an enterprise only if, altogether:
 - a) its main place of business, or headquarters is located in the member State issuing the approval;
 - b) its main activity is air transport, exclusively or combined with any other commercial activity including aircraft operations or aircraft maintenance and repair;
 - c) is effectively controlled by member States or nationals of member States; and the services operated by it have, in majority, as departure or arrival points one or more airports in a member State and its technical, operational and managerial staff is made, in majority, of member State's nationals;
2. The enterprise shall be, at any time, in a position to demonstrate to the Aeronautical Authority which issued the air carrier's approval that it meets the conditions set forth in the present article.

Article 5: Air Carrier's Obligations

1. Any enterprise applying for an air carrier's approval for the first time shall be in a position to demonstrate to the competent Aeronautical Authority, in a convincing manner, that it will be able to:

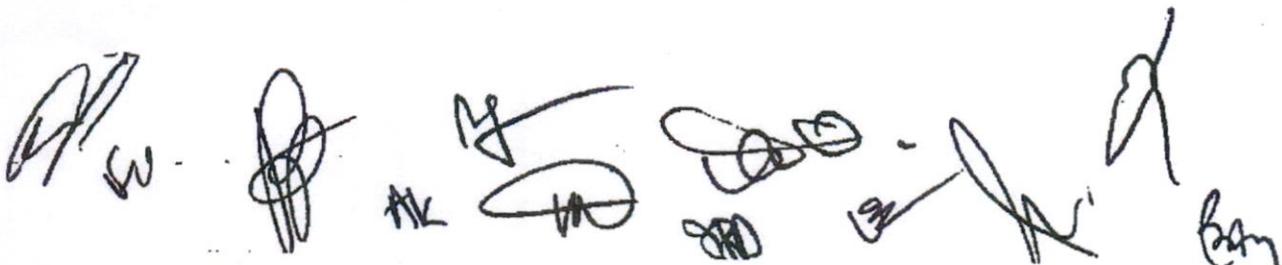
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- a) meet, at any time for a twenty four month period from the operating date, its present and potential obligations assessed on the basis of realistic assumptions; and
 - b) bear, for a three month period from the start of operations, fixed costs and operating costs entailed by its activities in accordance with the corporate plan and assessed on the basis of realistic assumptions without resorting to the income derived from its activities.
2. For the purpose of paragraph 1 above, any air carrier's application for approval shall be accompanied by a corporate plan covering at least the first two years of operation. The corporate plan shall also detail the financial relationship of the applicant with other commercial activities it may carry out either directly or through related enterprises. The applicant shall also provide any useful information, in particular data referred to in Annex A to this Supplementary Act.
3. Any enterprise shall, beforehand,
- a) notify the Aeronautical Authority its plans concerning the operation of a new scheduled or non-scheduled service to a continent or world region not connected before, changes to be made in the type and number of operated aircraft or a substantial change in the volume of its activities. The submission, three months before the period referred to, of a corporate plan for a twelve month period constitutes a sufficient notification under the present paragraph with respect to changes in the activities and/or current elements in the corporate plan; and/or
 - b) any merger plan or plan of redemption or detention of any participation representing 10% or more of the entire capital of the air carrier or the parent company or the company which has the control in the last resort.
4. If the Aeronautical Authority believes that the plans or the changes as notified in accordance with paragraph 3 of this article have major implications on the air carrier's financial situation, it shall request that a revised corporate plan be presented to it which shall

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include the changes as announced and cover at least a twelve month period from its implementation date as well as any useful information, including data referred to in Annex B to this Section, to be in a position to determine whether the air carrier is able to meet his/her present and potential obligations during the said period. The Aeronautical Authority shall make a decision on the revised corporate plan within three months from its date of submission. In the absence of reaction from the authority, silence gives consent.

5. When it is clear that an enterprise which was granted an approval has been experiencing financial difficulties, the Aeronautical Authority may at any time assess the financial results of that enterprise and may suspend or withdraw the operating license if it is not certain that the enterprise is able to meet its current and potential obligations for twelve months. The Aeronautical Authority may also issue a temporary approval when the enterprise is being restructured provided that safety is not jeopardized.
6. At each fiscal year and without undue delay, air carriers shall provide the Aeronautical Authority with certified accounts covering the preceding fiscal/financial year. At any time, at the Aeronautical Authority's request, air carriers shall provide the necessary information in compliance with paragraph 5 above and in particular, data referred to in Annex C to this Supplementary Act.
 - a) Paragraphs 1 to 4 above and paragraph 6 above shall not apply to air carriers who operate exclusively aircraft with a maximum take-off weight of ten (10) tons and/or a seating capacity below twenty (20) seats.
 - b) Such carriers shall at any time be able to demonstrate that their own funds amount to US\$10,000) at least and that they have an equivalent bank security. They shall, if necessary, provide the necessary information in compliance with paragraph 5 above, at the Aeronautical Authority's request.
 - c) However, an Aeronautical Authority may apply paragraphs 1 to 4 and paragraph 6 of the present article to air carriers to whom an approval

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was granted/issued and who operate scheduled air services or whose annual turnover is higher than US\$1,000,000

- On the proposal of the Commission, the Council may increase the amounts referred to in item (a) if the economic evolution makes such a decision necessary.

Article 6: Air Transport Enterprise Managers

- The granting of an approval to the air carrier shall be subject to verification of the integrity, competence and qualification of the persons who will effectively manage the activities of the enterprise. The production of documents issued by the appropriate authorities of the Member State of origin shall be accepted as sufficient evidence.
- The appropriate authorities of member States may require that the documents or attestations referred to in paragraph 1 above shall not date back to more than three months at the time of their submission.

Article 7: Insurance

An air carrier should have taken out insurance coverage from a reputable International Insurance Company sufficient to cover its liability for damage with respect to the transportation of passengers, baggage, freight, mail and third parties on the surface in compliance with the requirement of applicable International Conventions, Treaties and Protocols.

Article 8: Granting of an approval and continuing approval

- The granting of an approval shall not be subject to full ownership of aircraft. However, for continuing approval, the Aeronautical Authority shall require that air carriers have at their disposal one or several aircraft they own or in joint ownership or under any type of leasing contract of at least six (6) months duration.
- An air transport approval shall not be transferable.

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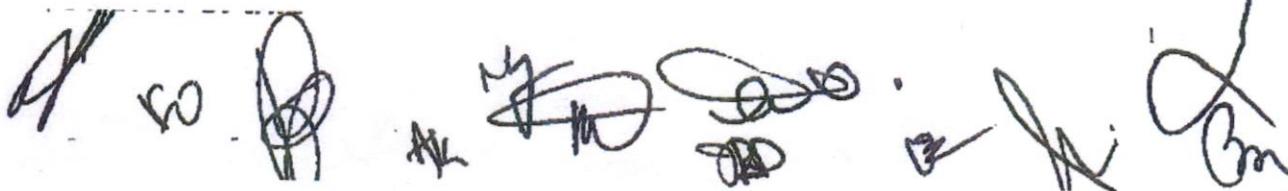
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Article 9: Registration

1. Without prejudice to paragraph 3 below, the aircraft used by an air carrier shall be registered in the member State which grants the approval on its national register and if necessary, by exemption on a national register of another member State.
2. For aircraft registered on a national register of a non-member State, a member State may grant exemptions on the conditions set forth in paragraph 1 above in case of leasing agreements aimed at meeting air carriers' temporary requirements/needs or under exceptional circumstances.
3. For the purpose of paragraph 1 above, a member State shall accept, subject to applicable national laws and Community rules, notably those dealing with airworthiness certificate, the inclusion in the national register without a discriminatory fee or delay aircraft owned by other States' nationals and transfers from other States registers.
4. There shall be no discriminatory fee for aircraft transfer in addition to the normal registration fee.

Article 10: Air Operator Certificate (AOC)

1. The Air operator certificate shall be issued only after a satisfactory inspection of the air carrier, its facilities and staff by the Aeronautical Authority taking into account ICAO standards and in particular Annex 6 of the Convention.
2. The Air Operator Certificate shall include at least the following elements:
 - i. air carrier's identity (company name, address);
 - ii. air carriers safety and security plan;
 - iii. description of the types of authorized operations;
 - iv. descriptions of the types of authorized aircraft and the ownership status;
 - v. operating areas and authorized routes.

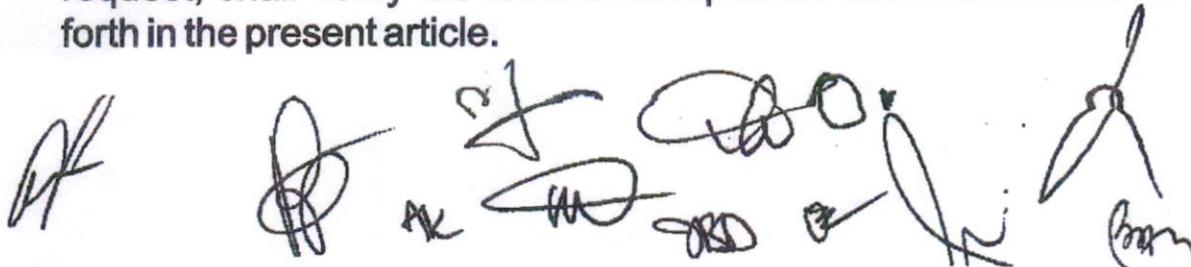
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Article 11: Leased aircraft operation

1. For compliance with safety and liability standards, an air carrier who uses another enterprise's aircraft or transfers the operation or ownership of an aircraft to another enterprise shall beforehand obtain an authorization from the competent Civil Aviation Authority respectively. Leasing contracts shall be subject to the Aeronautical Authority's approval.
2. The Aeronautical Authority shall not approve wet leases entered into with an air carrier to whom it granted an approval, unless safety standards equivalent to those imposed under article 10 above are adhered to.

Article 12: Procedures for issuing approvals

1. Procedures for issuing approvals shall be specified and made public by the Member State concerned, and the Commission shall be furnished with a copy of the Procedures accordingly.
2. The concerned Member State shall decide on an application, as soon as possible taking into account all the elements received, at the latest three months after the date the required information was received. It shall inform the applying enterprise of its decision. Any refusal shall be justified.
3. An enterprise whose air carrier's application has been turned down may without prejudice lodge an appeal to the Commission. If necessary, the Commission shall make a recommendation to the said State.
4. Member States' decisions to issue or withdraw an air carrier's approval shall be published in the National Gazette of the State concerned and in the Official Journal of the ECOWAS Commission.
5. The Commission, on its own initiative or acting on a member State's request, shall verify the level of compliance with the conditions set forth in the present article.

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Article 13: Validity of an air carrier's approval

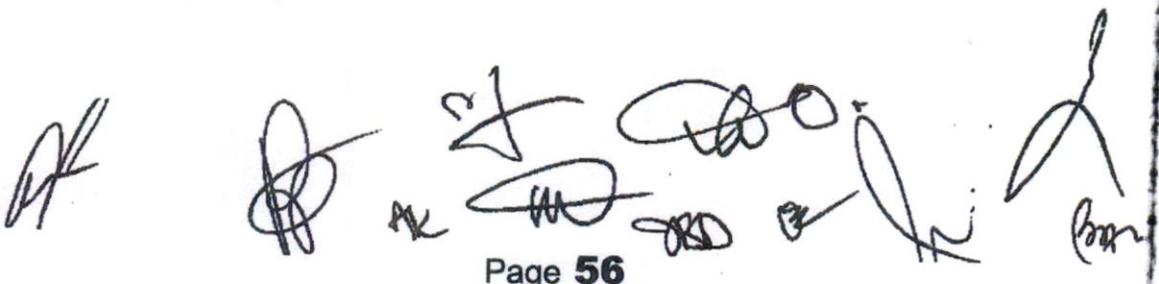
1. The air carrier's approval shall remain valid as long as the air carrier meets the obligations set forth in this Section. However, the Aeronautical Authority may impose a review at the end of the first year following the issuance of a new approval and every three years thereafter.
2. When an air carrier has interrupted its activities for six months or has not started operations six months after the license was issued, the Aeronautical Authority shall decide to review, if necessary, its case once again.
3. In case of change of one or several elements affecting the enterprise legal status, namely in case of change of ownership, restructuring and merger, the Aeronautical Authority shall decide to review the approval granted. Air carriers concerned may proceed with their activities unless the Aeronautical Authority decides, with justification, that flight safety is jeopardized.

Article 14: Withdrawal of an air carrier's Approval

1. An air carrier against whom an insolvency legal procedure has been instituted shall not be authorized to retain its license if there is no concrete possibility for satisfactory financial restructuring within a reasonable time span.
2. A Decision by the Aeronautical Authority to withdraw the approval if the conditions set forth in this Supplementary Act are not adhered to shall be justified.

Article 15: Compliance with national legislation

1. In addition to the rules set forth in this Section, the air carrier shall also comply with the provisions of the national legislation compatible with community laws.

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2. A National Regulation that is inconsistent with the provisions of this Supplementary Act shall to the extent of inconsistency be deemed null and void.

Article 16: Transitional provisions

For a maximum duration of two years from the date of entry into force of this Supplementary Act and notwithstanding Article 3, paragraph 1 of this Supplementary Act, valid approvals in any member State shall be maintained subject to adherence to laws under which they were granted.

Article 17: Report and cooperation

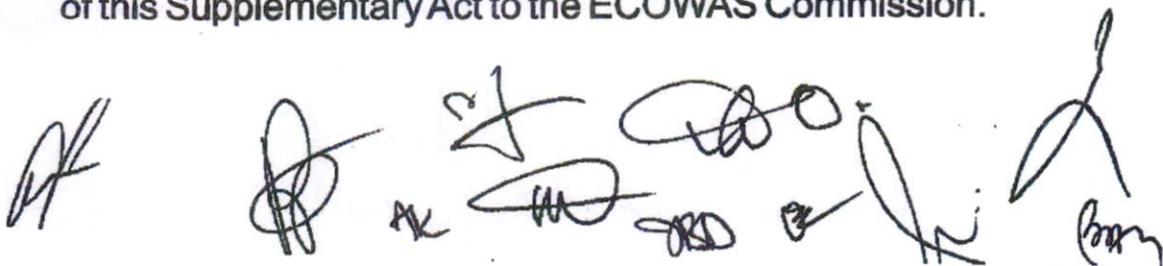
1. Member States and the Commission shall cooperate in the enforcement of these Supplementary Acts. Information obtained through the enforcement of this Supplementary Act shall be treated as confidential.
2. The ECOWAS Commission shall present a report to the Council on the enforcement of the Supplementary Act every two (2) years after their entry into force.
3. The ECOWAS Commission shall enter into cooperation with other international organizations for the purpose of implementing the present Supplementary Act.

Article 18: Implementation of the Supplementary Act

1. The member States shall take all necessary legislative and regulatory measures for effective implementation of the present Supplementary Act.
2. The ECOWAS member States shall communicate to ECOWAS Commission any measures concerning the implementation of the present Supplementary Act.

Article 19: Amendments

1. Any Member State may submit a proposal for amendment or revision of this Supplementary Act to the ECOWAS Commission.



2. Such proposed amendment shall be subject to the provisions of article 90 of the ECOWAS Treaty relating to the procedures of amendment and revision.

Article 20: Entry into Force and Publication

1. This Supplementary Act shall enter into force from the date of its signature by the Authority of the Heads of State and Government of ECOWAS.
2. It shall be published in the Official journal of the Community, within thirty (30) days of its signature by the Authority of the Heads of State and Government of ECOWAS.

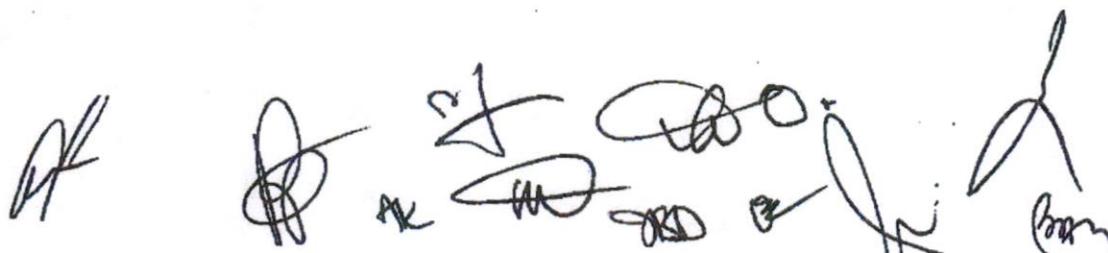
Article 21: Depositary Authority

This Supplementary Act shall be deposited at the Commission which shall transmit certified copies thereof to all member States and register same with the African Union (AU), the International Civil Aviation Organization (ICAO) and such other organizations as may be decided by the Council.

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

DONE IN ABUJA, THIS 17th DAY OF FEBRUARY 2012

**IN SINGLE ORIGINAL, IN THE ENGLISH, FRENCH AND
PORTUGUESE LANGUAGES, ALL THREE TEXTS BEING
EQUALLY AUTHENTIC**

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ANNEXES

ANNEX A: INFORMATION TO BE SUPPLIED BY AN ENTERPRISE APPLYING FOR AN AIR CARRIER'S APPROVAL FOR THE FIRST TIME IN RESPECT OF ITS FINANCIAL CAPACITY

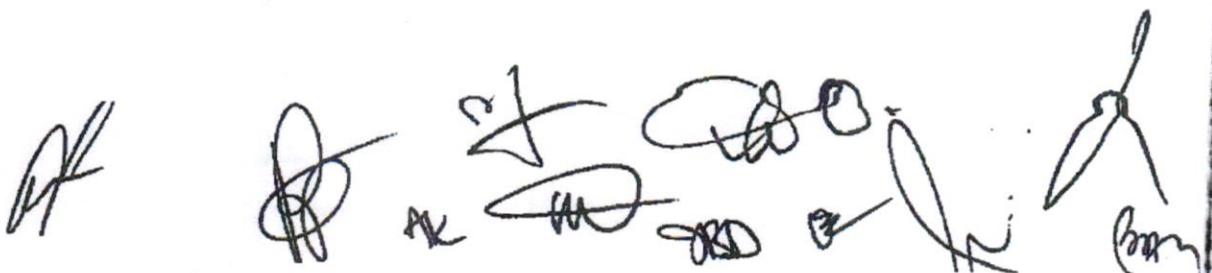
1. Latest in-house accounting and financial documents and, if they exist, certified accounts of the preceding financial year.
2. A balance sheet and a forecast result account for the two years ahead.
3. The base on which forecast income and expenditures were established for items such as fuel, tariffs, salaries, maintenance, depreciation, exchange rates fluctuations, airport charges, insurance, income and traffic forecasts.
4. Details on starting costs for the period from the time the application was filed to the beginning of operations and explanations on how such costs will be funded.
5. Details on current and potential sources of financing.
6. A detailed list of shareholders together with their nationality and type of shares held and statutes. If the enterprise is a member of a group of enterprises, information shall be provided on the relationship among such enterprises.
7. The gross margin of forecast self-financing and treasury plans for the first two operating years.
8. Details on the financing of aircraft purchases, and leasing, including in case of leasing contract, the leasing terms and conditions.

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ANNEX B:

INFORMATION TO BE PROVIDED FOR ASSESSMENT OF THE FINANCIAL CAPACITY OF LICENSE HOLDERS WHO PLAN TO CHANGE THEIR STRUCTURES OR THEIR ACTIVITIES WITH MAJOR IMPLICATIONS ON THEIR FINANCIAL SITUATION:

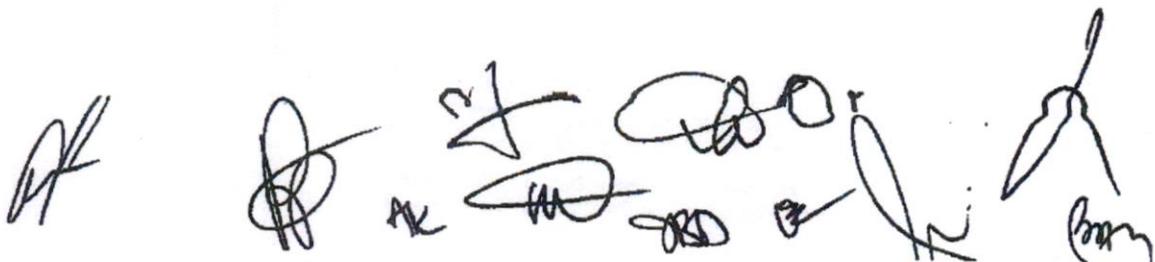
1. Latest in-house accounting and financial documents and certified accounts of the preceding financial year.
2. Specific details on any changes contemplated, such as change in the type of service, repurchase or merger plans, change in the capital stock, shareholder changes, etc.
3. A balance sheet and forecast results for the current financial year taking into account contemplated changes of structures or activities with major financial implications.
4. Executed income and expenditures as well as forecast income and expenditures for items such as fuel, tariffs, salaries, maintenance, depreciation, exchange rates fluctuations, airport charges, insurance, statistics and income and traffic forecasts.
5. Gross margin of self-financing and treasury plans for next year bearing in mind any contemplated changes in structures and activities with major financial implications.
6. Details on the financing of purchases through aircraft leasing including, in case of leasing, the leasing terms and conditions.

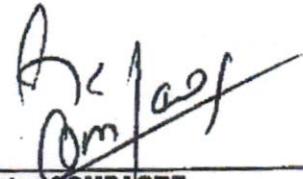
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ANNEX C:

INFORMATION TO BE PROVIDED FOR ASSESSMENT OF THE CURRENT FINANCIAL CAPACITY OF APPROVAL HOLDERS

1. Certified accounts at the latest six months after the end of the period they relate to and if necessary, the latest in-house accounting and financial documents.
2. A balance sheet and a forecast result account for the year ahead.
3. Executed income and expenditures as well as forecast income and expenditures for items such as fuel, tariffs, salaries, maintenance, depreciation, exchange rates fluctuations, airport charges, insurance, statistics and income and traffic forecasts.
4. The gross margin of self-financing and treasury plans for the year ahead.

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H. E. Thomas Boni YAYI
President of the Republic of Benin

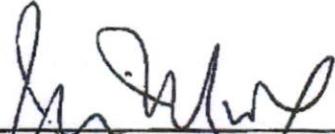
H. E. Blaise COMPAORE
President of Burkina Faso

H.E. Jose Maria Pereira NEVES
Prime Minister and Head of the Government,
of the Republic of Cape Verde

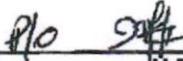
H. E. Alassane OUATTARA
President of the Republic of Côte d'Ivoire



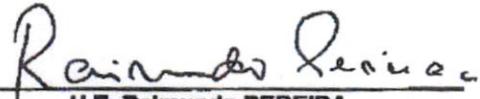
H. E. Abdou KOLLEY
Minister of Fisheries, Water Resources
and National Assembly Matters
for and on behalf of the President
of the Republic of The Gambia



H.E. Alhaji Muhammad MUMUNI
Minister of Foreign Affairs and Regional Integration
for and on behalf of the President
of the Republic of Ghana



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



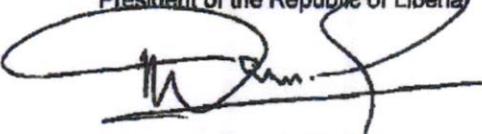
H.E. Raimundo PEREIRA
Interim President of the Republic of Guinea Bissau



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



H. E. Badara Aliou MACALOU
Minister of African Integration and Malians Abroad, for
and on behalf of the President of the Republic of Mali



H.E. Issoufou MAHAMADOU
President of the Republic of Niger



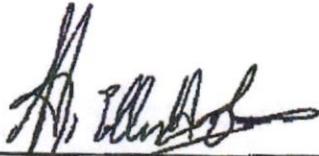
H. E. Goodluck Ebele JONATHAN, GCFR
President of the Federal Republic of Nigeria,
Chairman of the Authority of Heads of State
and Government of ECOWAS



H.E. Mamadou NDIAYE
Ambassador, Director of Cabinet to the Minister
of Foreign Affairs, for and on behalf of the President
of the Republic of Senegal



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



H. E. Elliott OHIN
Minister of Foreign Affairs and Cooperation,
for and on behalf of the President of the Togolese Republic

**COMUNIDAD DOS ESTADOS DA
AFRICA DO OESTE**

**COMMUNAUTE ECONOMIQUE DES
ETATS DE L'AFRIQUE DE L'OUEST**



**ECONOMIC COMMUNITY OF
WEST AFRICAN STATES**

**FORTIETH ORDINARY SESSION OF THE HEADS OF STATE AND
GOVERNMENT OF THE ECOWAS MEMBER STATES**

Abuja, 16 to 17 February 2012

**SUPPLEMENTARY ACT A/SP.8/02/12 RELATING TO THE COMMON
RULES ON THE CONDITIONS OF ACCESS TO AIR TRANSPORT
MARKETS**

IN ECOWAS MEMBER STATES

THE HIGH CONTRACTING PARTIES,

MINDFUL of articles 7, 8 and 9 of ECOWAS revised Treaty as amended establishing the Authority of Heads of State and Government and defining its composition and functions;

MINDFUL of article 32(1)(f) of the said Treaty which prescribes that Member States encourage co-operation in flight scheduling, leasing of aircraft and granting joint use of fifth freedom rights to airlines in the region;

MINDFUL of the Supplementary Act A/SA1/2/08 particularly article 4 adopting the Community Competition Rules and the Modalities of their application within ECOWAS;

MINDFUL of Decisions A/DEC.7/7/96 and A/DEC.6/12/03 of the Authority of Heads of State and Government on the conclusion of a Multilateral Air Transport Agreement among Member States and the Liberalization of the Air Transport Sector in West Africa respectively;

RECALLING the Convention on International Civil Aviation signed at Chicago, on the 7th December 1944 and its annexes;

MINDFUL of the Decision relating to the implementation of the Yamoussoukro Declaration concerning the liberalization of Access to Air Transport Markets in Africa adopted on the 14th of November 1999 by the African Ministers in charge of civil aviation; and endorsed by the OAU Heads of State in Lome, Togo, in July 2000;

MINDFUL also of the Memorandum of Understanding (MOU) on the implementation of the Decision on the Liberalization of Air Transport in West and Central Africa signed by 23 States of West and Central Africa on 14 November 1999;

ACKNOWLEDGING that the reports of the 3rd, 4th and 5th Meetings of Ministers responsible for Civil Aviation in West and Central Africa, noted some discrepancies in national rules and Supplementary Acts concerning Slot Allocation, Denied Boarding, Ground Handling, Approval of Airline, Conditions for Market Access, Air Tariffs, Liability of Airline in case of an Accident, Rules of Competition and Exemption issued by the member States in West and Central Africa;

CONSIDERING that such disparities contradict the spirit and objectives of the Yamoussoukro Decision;

DETERMINED to address the disparities and to harmonize national legislations and regulations in matters of Air Transport Services;

DESIROUS to adopt a Common Community legal framework on Conditions of Access to Air Transport Markets in ECOWAS Member States;

ON THE PROPOSAL of the Meeting of Transport Ministers held in Yamoussoukro on the 17 September 2011;

HAVING received the opinion of the ECOWAS Parliament;

ON THE RECOMMENDATION of the Sixty-Seventh Session of the Council of Ministers held in Abuja, from 19 to 21 December 2011.

HEREBY AGREE AS FOLLOWS

Article 1: Definitions

For the purpose of this Supplementary Act, the following terms shall have the meanings assigned to them hereafter:

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Aeronautical Authority: any governmental authority, corporate body or organ duly authorised to perform the functions of civil aviation;

Air carrier: an air transport enterprise holding a valid approval issued by a member State.

Airport: surface defined on land or water used for the arrival, departure and movements of the aircraft on the surface;

Air service: flight or series of flights carrying, passengers, freight or mail for hire or reward;

Capacity: Number of seats made available to the public or freight payload and mail on an air service for a determined period;

Chicago Convention: Convention on International Civil Aviation signed in Chicago on 07 December 1944 incl. all its annexes;

Community: The Economic Community of West African States as referred to in article 2 of the ECOWAS Revised Treaty;

Council: Council of Ministers as established under article 10 of ECOWAS revised Treaty

ECOWAS Commission: ECOWAS Commission established in article 17 of the ECOWAS Revised Treaty as amended in June 2006;

Flight: Air routing of an aircraft departing from a given airport to an airport of destination.

ICAO: International Civil Aviation Organisation a Special Agency of the United Nations headquartered in Montreal, Canada;

Member State: A State party to the ECOWAS Revised Treaty;

Member States concerned: Member States between which or a member State within which an air service is operated;

Member States involved: Member State concerned or member States that have issued approval to the airlines operating the air services;

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Non-scheduled air service: A commercial air service performed in a different way as compared with a scheduled service;

Public service obligations: Obligations imposed on an air carrier to make, with respect to any air services that it may operate under an air carrier approval issued by an Aeronautical Authority, any necessary arrangements to ensure/provide services of general public interest which meet the standards set as regards continuity, regularity, capacity and costs; such standards would not be met if the air carrier had to bear in mind the commercial interest alone;

Scheduled air service: a series of flights with all the following characteristics:

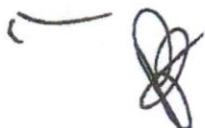
- i) it is performed, subject to consideration, with aircraft to carry passengers, freight and/or mail in such conditions that, on each flight, individual seats are made available to the public either directly by the air carrier, or through its authorized agents;
- ii) it is organized for the purpose of connecting two airports or more: either according to a published schedule; or with such a regularity or frequency that it becomes part of an obvious systematic series;

Traffic right: Right for an air carrier to carry, subject to payment, passengers, freight and/or mail on an air link between two or several airports in ECOWAS region.

Article 2: Object and scope

This Supplementary Act shall determine the conditions of access of the air carriers to scheduled and non-scheduled air services of the Community. An ECOWAS designated air carrier shall be permitted to operate between any two airports within the Community.


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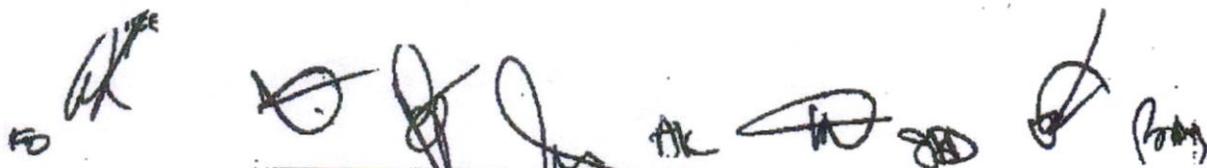


Article 3: Granting of traffic rights

Subject to compliance with the provisions of this Supplementary Act, the air carriers shall be designated and authorised by the member States concerned to exercise traffic rights on air services within ECOWAS territory.

Article 4: Designation and Authorization

1. Each Member State shall have the right to designate in writing one or more air carrier(s) to operate air transport services in accordance with article 3 of this Supplementary Act. Such designation shall be notified to the other member State(s) concerned, accompanied by the operating license and AOC of the air carrier and the corresponding insurance policies, and the ECOWAS Commission.
2. A member State may also designate an air carrier from another member State [or other State Party to the Yamoussoukro Decision] to operate air services on its behalf.
3. A member State shall have the right to designate a multinational air carrier in which it (the State) and/or ECOWAS citizens have shares and the rights to operate its air services on their behalf.
4. On receipt of the notification of such designation, the other member State(s) concerned shall, subject to paragraphs 5 and 6 of this article, without delay but not later than 30 days, grant to the air carrier that has been authorized the appropriate authorization to the designated air carrier.
5. A member State concerned shall have the right to satisfy itself that the air carrier designated has been authorized and agreed to fulfill the conditions for the operation of the air routes for which it has been designated.
6. A member State concerned shall have the right to refuse to grant the authorization referred to in paragraph 4 of this article, or to impose such conditions as it may deem necessary on the rights specified in

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article 3 of this Supplementary Act, in any case where it is not satisfied that the designated air carrier has been certificated and licensed to fulfill the conditions for the operation of the routes for which it has been designated.

Article 5: Public service obligations

1. A member State may, by decision based on general public interest requirements, notably the need for territory development, make provision for public service obligations on a given domestic link.
2. Two or several member States may, by decision based on general public interest requirements, notably the need for territory development, impose public service obligations on one or several specific intra-community links.
3. Decisions referred to in paragraphs 1 or 2 above may relate to obligations concerning the duration of operation of the services, and the conditions pertaining to air fares and rates, frequencies, capacity and taking into account specific categories of passengers or freight.
4. They shall be notified to the ECOWAS Commission for publication in the Official Bulletin of ECOWAS. The ECOWAS Commission, on its own initiative or acting at a Member State or air carrier's request, may organize consultations with member State(s) concerned on the compliance of decisions with the provisions of the law of ECOWAS and where necessary, on the duration of restrictions already complied with.
5. The ECOWAS Commission shall report to the Council the outcome of the above-mentioned consultations.
6. When the decision imposing a public service obligation route is published in the Official Bulletin of ECOWAS, but that no air carrier of a Member State has commenced, or considers to commence operating scheduled air services on that route, the concerned member State(s) may invite tenders with specifications for the purpose of selecting an air carrier.

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Article 6: Granting traffic rights to non-member States of ECOWAS

1. In compliance with international agreements in force, air carriers established in a non-member State may be authorized by a member State to operate traffic rights from its territory, on intra-community links provided that such a third State:
 - a) de jure or de facto grants to the air carriers a treatment comparable to that reserved by concerned member States to that State's carriers.
 - b) de jure or de facto grants to the air carriers the most favourable treatment offered to other countries' carriers.
 - c) has issued to them an air carrier approval on the basis of economic and technical criteria equivalent to those set forth in the Supplementary Acts relating to air carrier's approval.
2. Air carriers established in a non-member State that adheres to the Yamoussoukro Decision shall be considered as authorized by the member States to operate air services on the same conditions as an air carrier of ECOWAS on a reciprocal basis.

Article 7: Operating Rules

The exercise of traffic rights shall be subject to competition laws within the Community as enacted by the ECOWAS Treaty and community, national or local operating rules as published concerning aviation security, safety, and environmental protection and slot allocations.

Article 8: Operational Flexibility

In operating scheduled and non-scheduled services, an air carrier may, on any or all flights and at its option:

- (a) operate flights in both directions; and
- (b) combine air services and use the same flight number.

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Article 9: Cooperative Arrangements

In operating the authorized services on the agreed routes, a designated air carrier of one State Party may enter into cooperative marketing arrangements such as blocked-space, code sharing, franchising or leasing arrangement, with an air carrier or air carriers of the other State Party.

Article 10: Conditions for Operating Business

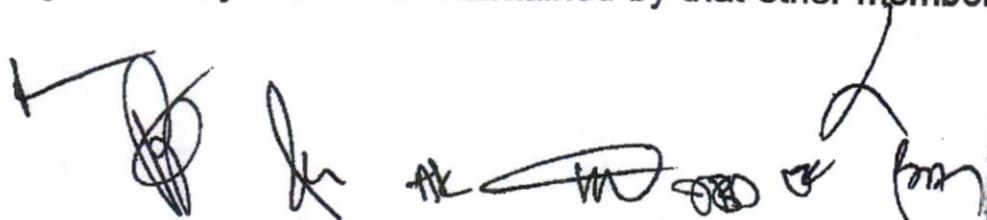
1. Air carriers shall have the right to establish offices in the territory of member States for the promotion and sale of their air services as well as other facilities needed for the provision of said air services. The air carriers shall also be allowed, in conformity with national laws and Supplementary Acts pertaining to entry, residence and employment, to bring in and maintain in the territory of the member States concerned managerial, sales, technical, operational and other specialist staff required for the provision of these air services.
2. Air carriers shall be granted the right to convert and remit to the country of its choice, all local revenues from the sale of air services and associated activities directly linked to air transport in excess of sums locally disbursed, with conversion and remittance permitted promptly without restriction.
3. Air carriers shall be permitted to pay for local expenses such as handling and purchase of fuel in local currency.

Article 11: Transitional provision

A Member State shall not be obligated to authorize the exercise of cabotage rights on its territory by air carriers holding a license issued by another Member State up to 12 months from the date of the coming into force of this Supplementary Act.

Article 12: Safety

1. A Member State may request consultation with another Member State concerning the safety standards maintained by that other member

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State relating to the operation of the air carrier(s) approved by that other Member State, its aeronautical facilities and services, air crews and aircraft.

If, following such consultations, the Member State finds that the other Member State does not effectively maintain and administer safety standards and requirements in any of the above areas that at least equal the minimum standards pursuant to the Chicago Convention or as established by ECOWAS it shall so notify the ECOWAS Commission indicating the appropriate remedial action.

2. Upon a notification according to paragraph 1 of this article the ECOWAS Commission shall without delay and at the latest within two weeks convene a consultative meeting with the concerned Member States in order to discuss the appropriate remedial action, if any.
3. The present Supplementary Act shall not prevent the aeronautical authority of a member State involved from reacting immediately to a safety problem where the authority concludes that immediate action is essential to the safety of an air carrier operation.
4. This may apply to a safety problem which becomes apparent as a result of a ramp inspection, a series of ramp inspections, a denial of access for ramp inspection, failure to implement prior recommendations made or otherwise. For this purpose immediate reaction may include, as appropriate, the suspension or withdrawal of permission for the exercise of traffic rights by the air carrier(s) concerned to the State involved. In such a case, the member State shall inform the other Member States and ECOWAS Commission of such decision.

Article 13: Security

The Member States shall implement the provisions of the Supplementary Act A/SP.11/02/12 establishing common rules on Civil Aviation Security in ECOWAS Member States.

Article 14: Report and cooperation

1. Member States and the ECOWAS Commission shall cooperate for the implementation of this Supplementary Act



2. The ECOWAS Commission shall present a report to the Council on the enforcement of the Supplementary Act every two years after their entry into force.
3. The ECOWAS Commission shall enter into cooperation with other international organizations for the purpose of implementing the present Supplementary Act.

Article 15: Implementation of the Supplementary Act

1. The member States shall take all necessary legislative and regulatory measures for effective implementation of the present Supplementary Act.
2. The ECOWAS member States shall communicate to ECOWAS Commission any measures concerning the implementation of the present Supplementary Act.

Article 16: Amendments

1. Any Member State may submit proposal for amendment or revision of this Supplementary Act to the ECOWAS Commission.
2. Such proposed amendment shall be subject to the provisions of article 90 of the ECOWAS Treaty relating to the procedures of amendment and revision.

Article 17: Entry into Force and Publication

1. This Supplementary Act shall enter into force from the date of its signature by the Authority of the Heads of State and Government of ECOWAS.
2. It shall be published in the Official journal of the Community, within thirty (30) days of its signature by the Authority of the Heads of State and Government of ECOWAS.



Article 18: Depository Authority

This Supplementary Act shall be deposited at the Commission which shall transmit certified copies thereof to all member States and register same with the African Union (AU), the International Civil Aviation Organization (ICAO) and such other organizations as may be decided by the Council.

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

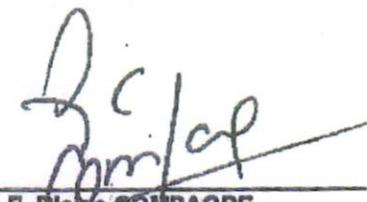
DONE IN ABUJA, THIS 17th DAY OF FEBRUARY 2012

IN SINGLE ORIGINAL, IN THE ENGLISH, FRENCH AND PORTUGUESE LANGUAGES, ALL THREE TEXTS BEING EQUALLY AUTHENTIC



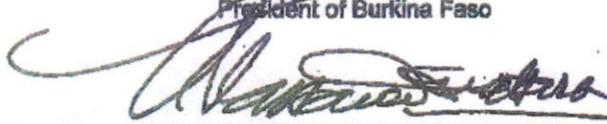


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President of the Republic of Benin



H. E. Blaise COMPAORE
President of Burkina Faso

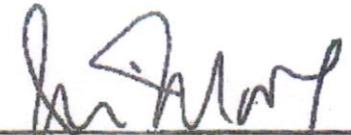
H.E. Jose Maria Pereira NEVES
Prime Minister and Head of the Government,
of the Republic of Cape Verde



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



H. E. Abdou KOLLEY
Minister of Fisheries, Water Resources
and National Assembly Matters
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Minister of Foreign Affairs and Regional Integration
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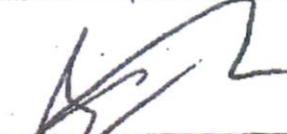
H.E. Alpha CONDE
President of the Republic of Guinea



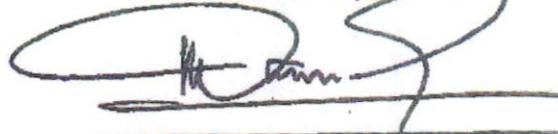
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Interim President of the Republic of Guinea Bissau



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



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Minister of African Integration and Migrants Abroad,
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H. E. Elliott OHIN
Minister of Foreign Affairs and Cooperation,
for and on behalf of the President of the Togolese Republic

**COMUNIDAD DOS ESTADOS DA
AFRICA DO OESTE**

**COMMUNAUTE ECONOMIQUE DES
ETATS DE L'AFRIQUE DE L'OUEST**



**ECONOMIC COMMUNITY OF
WEST AFRICAN STATES**

**FORTIETH ORDINARY SESSION OF THE HEADS OF STATE AND
GOVERNMENT**

OF THE ECOWAS MEMBER STATES

Abuja, 16 to 17 February 2012

**SUPPLEMENTARY ACT A/SP.6/02/12 RELATING TO THE COMMON
RULES ON TARIFFS APPLICABLE TO PASSENGERS, FREIGHT AND
MAIL FOR AIR TRANSPORT WITHIN, FROM AND TO ECOWAS
MEMBER STATES**

THE HIGH CONTRACTING PARTIES,

MINDFUL of articles 7, 8 and 9 of ECOWAS revised Treaty as amended establishing the Authority of Heads of State and Government and defining its composition and functions;

MINDFUL of article 32(1)(f) of the said Treaty which prescribes that Member States encourage co-operation in flight scheduling, leasing of aircraft and granting joint use of fifth freedom rights to airlines in the region;

MINDFUL of the Supplementary Act A/SA1/2/08 particularly article 4 adopting the Community Competition Rules and the Modalities of their application within ECOWAS;

MINDFUL of Decisions A/DEC.7/7/96 and A/DEC.6/12/03 of the Authority of Heads of State and Government on the conclusion of a Multilateral Air Transport Agreement among Member States and the Liberalization of the Air Transport Sector in West Africa respectively;

RECALLING the Convention on International Civil Aviation signed at Chicago, on the 7th December 1944 and its annexes;

MINDFUL of the Decision relating to the implementation of the Yamoussoukro Declaration concerning the liberalization of Access to Air Transport Markets in Africa adopted on the 14th of November 1999 by the African Ministers in charge of civil aviation; and endorsed by the OAU Heads of State in Lome, Togo, in July 2000;

MINDFUL also of the Memorandum of Understanding (MOU) on the implementation of the Decision on the Liberalization of Air Transport in West and Central Africa signed by 23 States of West and Central Africa on 14 November 1999;

ACKNOWLEDGING that the reports of the 3rd, 4th and 5th Meetings of Ministers responsible for Civil Aviation in West and Central Africa, noted some discrepancies in national rules and Supplementary Acts concerning Slot Allocation, Denied Boarding, Ground Handling, Approval of Airline, Conditions for Market Access, Air Tariffs, Liability of Airline in case of an Accident, Rules of Competition and Exemption issued by the member States in West and Central Africa;

CONSIDERING that such disparities contradict the spirit and objectives of the Yamoussoukro Decision;

DETERMINED to address the disparities and to harmonize national legislations and regulations in matters of Air Transport Services;

DESIROUS to adopt a Common Community legal framework on Tariffs Applicable to Passengers, Freight and Mail for Air Transport Services within, from and to ECOWAS Member States;

ON THE PROPOSAL of the Meeting of Transport Ministers held in Yamoussoukro on the 17 September 2011;

HAVING received the opinion of the ECOWAS Parliament;

ON THE RECOMMENDATION of the Sixty-Seventh Session of the Council of Ministers held in Abuja, from 19 to 21 December 2011.

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HEREBY AGREE AS FOLLOWS

Article 1: Definitions

For the purpose of this Supplementary Act, the following terms shall have the meanings assigned to them hereafter:-

Aeronautical Authority: any governmental authority, corporate body or organ duly authorised to perform this function;

Air carrier: an air transport enterprise holding a valid air operating certificate issued by an Aeronautical Authority: pursuant to the Supplementary Acts on the approval of air carriers;

Air service: any flight or series of flights carrying, subject to consideration, passengers, freight and/or mail;

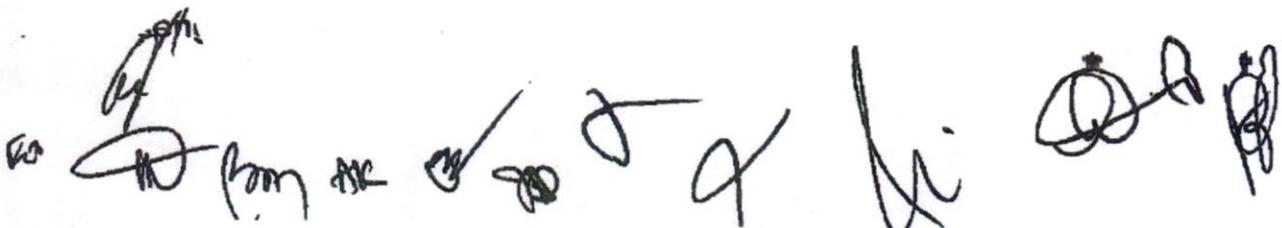
Air tariff (air fare and rate) : prices expressed in any currency of a member State to be paid for the carriage of passengers ,freight and mail on an air service together with the applicable conditions of such prices, including the remuneration and conditions offered to agencies and other ancillary services;

Basic passenger tariff : a fully flexible tariff (the lowest) for one-way trip or a round trip which is offered at least to the same extent as any other fully flexible tariff offered for the same air service;

Capacity: The number of seat offered to the public or freight or air post service for a determined period;

Chicago Convention: Convention on International Civil Aviation signed in Chicago on 07 December 1944 incl. all its annexes;

Community: The Economic Community of West African States as referred to in article 2 of the ECOWAS Revised Treaty;

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Council: Council of Ministers as established under article 10 of ECOWAS revised Treaty

ECOWAS Commission: ECOWAS Commission established in article 17 of the ECOWAS Revised Treaty as amended in June 2006;

ICAO: International Civil Aviation Organisation a Special Agency of the United Nations headquartered in Montreal, Canada;

Member State: A State party to the ECOWAS Revised Treaty;

Member States concerned: Member States between which or a member State within which an air services is operated;

Member States involved: Member State concerned and/or member States in which air carrier(s) that operate the air service are holders of an air carrier's license;

Right of Traffic: The right of carrier to transport passenger paying freight or courier on air links between two or many airports of ECOWAS;

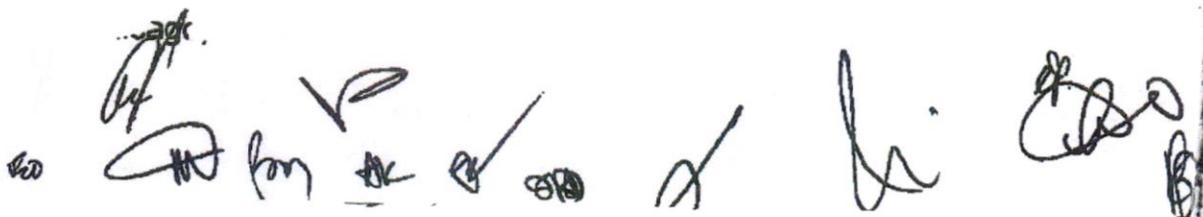
Standard freight tariff: Freight tariffs generally applied by the air carrier excluding the regular discount agreed among air carriers.

Article 2: Purpose and Scope

1. The present Supplementary Act shall establish the necessary criteria and procedures for setting passengers, freight and/or mail tariffs applied by air carriers operating air traffic rights within, from or to the ECOWAS Member States.
2. This Supplementary Act shall also apply to any air carrier operating traffic rights within, from or to the ECOWAS Member States.

Article 3: Air Tariff Setting

Air carriers shall freely set air tariffs applicable for the carriage of passengers, freight and mail within ECOWAS Member States.

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Article 4: Tariffs under public service obligations

The present Supplementary Act shall not be applicable to passengers, freight and mail tariffs determined under public service obligations in compliance with the Supplementary Act establishing common rules on conditions of access to air transport markets in ECOWAS Member States.

Article 5: Filing of tariffs

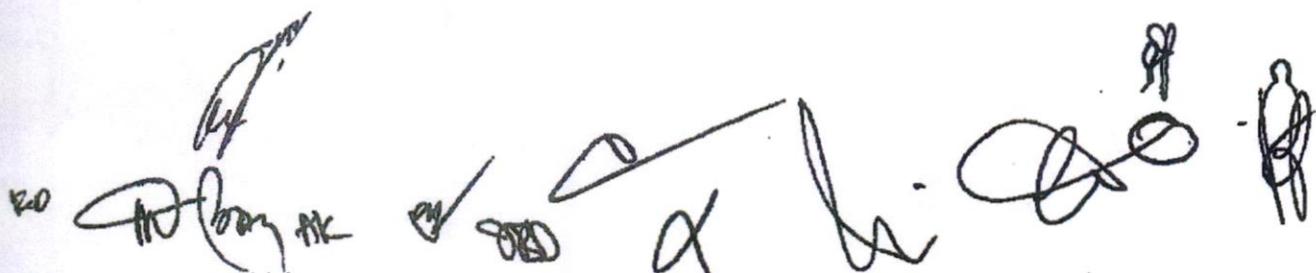
1. In case of tariff increase, there shall be no approval required by the aeronautical authorities of the ECOWAS Member State concerned for tariff to be charged by the designated airlines of Member States for the carriage of passengers, freight and mail. The airlines shall in this case file such tariffs before competent authorities 30 working days before they enter into effect.
2. This provision is not applicable in the case of lowering tariff which takes immediate effect according to the will of the airline.

Article 6: Tariff information

1. Air carriers operating within the Community shall make available at their headquarters, airport and sales outlets communicate their basic passengers tariffs and their standard freight tariffs to any interested passenger or shipper (individual or legal entity), at their request.
2. Air carriers operating within the Community shall include all compulsory taxes, fees and surcharges in published air ticket prices.

Article 7: Tariff suspension

1. Where a member State establishes that an Air Carrier is applying an excessively high or abnormally low fare which has no relation to the economic value of the service, it may refer the matter to the competent competition or consumer protection authorities in



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accordance with Supplementary Act A/SA1/2/08 adopting the Community Competition Rules and the Modalities of their application within ECOWAS.

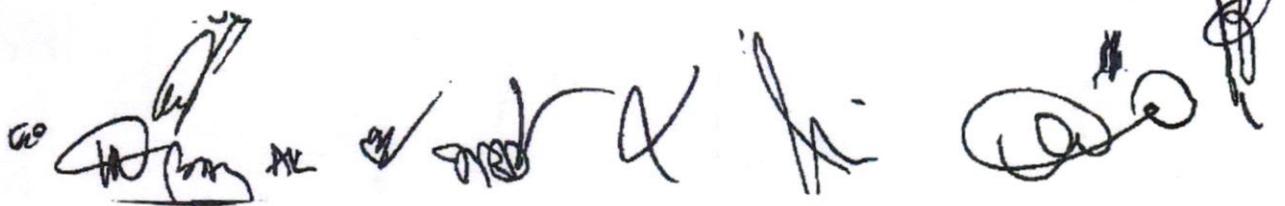
2. If within fourteen (14) days from the date of receipt of notification, neither a concerned member State, nor the Commission have notified their disapproval grounded on the criteria set forth in paragraph 1 above, the Member State which took the decision pursuant to the same paragraph, may order concerned air carriers to suspend the application of the tariff in question.
3. In case of disapproval, the Commission or any member State involved may seek consultations with the member State concerned for the purpose of examining the situation. Such consultations shall be conducted within fourteen (14) days as a maximum from the date the consultations were requested unless otherwise agreed.
4. When consultations referred to in paragraph 3 above are not conclusive, the matter shall be submitted to the Council of Ministers who, if necessary, can rule through decision-making.

Article 8: Consultations on tariffs

1. Once a year, the ECOWAS Commission shall consult air carriers and representatives of associations of air transport users within ECOWAS on air fares and rates (tariffs) and related issues; to this end, it shall provide participants with relevant information.
2. The ECOWAS Commission shall also promote consultations under its auspices between air carriers and associations of air transport users.

Article 9: Information request

1. For the follow up of the present Supplementary Act, the ECOWAS Commission shall collect any useful information from member States and the air carriers concerned.



2. When the required information has not been provided within the prescribed deadline or when the information supplied is incomplete, the ECOWAS Commission shall request from the concerned aeronautical authorities to take necessary fines against the said air carriers.
3. Where the air carrier does not settle an imposed fine, the ECOWAS Commission shall request the suspension of the totality or part of the rights the air carrier has been enjoying under this Supplementary Act and the Supplementary Act establishing common rules on conditions of access to air transport markets in ECOWAS member States.
4. In the absence of a response from a State, the Commission shall take the appropriate action as provided for in the ECOWAS Treaty.

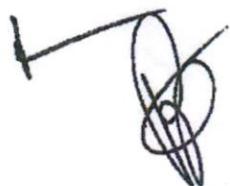
Article 10: Report and cooperation

1. Member States and the ECOWAS Commission shall cooperate for the implementation of this Supplementary Act
2. The ECOWAS Commission shall present a report to the Council on the enforcement of the Supplementary Act every two(2) after their entry into force.
3. The ECOWAS Commission shall enter into cooperation with other international organizations for the purpose of implementing the present Supplementary Act.

Article 11: Implementation of the Supplementary Act

1. The member States shall take all necessary legislative and regulatory measures for effective implementation of the present Supplementary Act.
2. The ECOWAS member States shall communicate to ECOWAS Commission any measures concerning the implementation of the present Supplementary Act.











Article 12: Amendments

Any Member State may submit proposal for amendment or revision of this Supplementary Act to the ECOWAS Commission in accordance with the provisions of article 90 of the ECOWAS Treaty relating to the procedures of amendment and revision.

Article 13: Entry into Force and Publication

1. This Supplementary Act shall enter into force from the date of its signature by the Authority of the Heads of State and Government of ECOWAS.
2. It shall be published in the Official journal of the Community, within thirty (30) days of its signature by the Authority of the Heads of State and Government of ECOWAS.

Article 14: Depository Authority

This Supplementary Act shall be deposited at the Commission which shall transmit certified copies thereof to all member States and register same with the African Union (AU), the International Civil Aviation Organization (ICAO) and such other organizations as may be decided by the Council.

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

DONE IN ABUJA, THIS 17th DAY OF FEBRUARY 2012

**IN SINGLE ORIGINAL, IN THE ENGLISH, FRENCH AND
PORTUGUESE LANGUAGES, ALL THREE TEXTS BEING EQUALLY
AUTHENTIC**



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**COMUNIDAD DOS ESTADOS DA
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**COMMUNAUTE ECONOMIQUE DES
ETATS DE L'AFRIQUE DE L'OUEST**



**ECONOMIC COMMUNITY OF
WEST AFRICAN STATES**

**FORTIETH ORDINARY SESSION OF THE HEADS OF STATE AND
GOVERNMENT OF THE ECOWAS MEMBER STATES**

Abuja, 16 to 17 February 2012

**SUPPLEMENTARY ACT A/SP.9/02/12 RELATING TO THE COMMON
RULES ON CERTAIN CATEGORIES OF AGREEMENTS, DECISIONS
AND CONCERTED PRACTICES RELATING TO RULES OF
COMPETITION IN AIR TRANSPORT SERVICES WITHIN ECOWAS
MEMBER STATES**

THE HIGH CONTRACTING PARTIES,

MINDFUL of articles 7, 8 and 9 of the Treaty of ECOWAS as amended establishing the Authority of Heads of states and Government and defining its composition and functions;

MINDFUL of article 32(1)(f) of the said Treaty which prescribes that member States encourage co-operation in flight scheduling, leasing of aircraft and granting joint use of fifth freedom rights to airlines in the region;

MINDFUL of the Supplementary Act A/SA 1/2/08 particularly article 4 adopting the Community Competition Rules and the Modalities of their application within ECOWAS;

MINDFUL of the Supplementary Act A/SA 2/12/2008 on the establishment, function and operation of the regional competition authority for ECOWAS;

MINDFUL of Decisions A/DEC.7/7/96 and A/DEC.6/12/03 of the Authority of Heads of State and Government on the conclusion of a Multilateral Air Transport Agreement among Member States and the Liberalization of the Air Transport Sector in West Africa respectively;

RECALLING the Convention on International Civil Aviation opened for signature at Chicago, on the 7th December 1944 and its annexes;

MINDFUL of the Decision relating to the implementation of the Yamoussoukro Declaration concerning the liberalization of Access to Air Transport Markets in Africa adopted on the 14th of November 1999 by the African Ministers in charge of civil aviation; and endorsed by the OAU Heads of State in Lome, Togo, in July 2000;

MINDFUL also of the Memorandum of Understanding (MOU) on the implementation of the Decision on the Liberalization of Air Transport in West and Central Africa signed by 23 States of West and Central Africa on 14 November 1999;

ACKNOWLEDGING that the reports of the 3rd, 4th and 5th Meetings of Ministers responsible for Civil Aviation in West and Central Africa, noted some discrepancies in national rules and Supplementary Acts concerning Slot Allocation, Denied Boarding, Ground Handling, Approval of Airline, Conditions for Market Access, Air Tariffs, Liability of Airline in case of an Accident, Rules of Competition and Exemption issued by the member States in West and Central Africa;

CONSIDERING that such disparities contradict the spirit and objectives of the Yamoussoukro Decision;

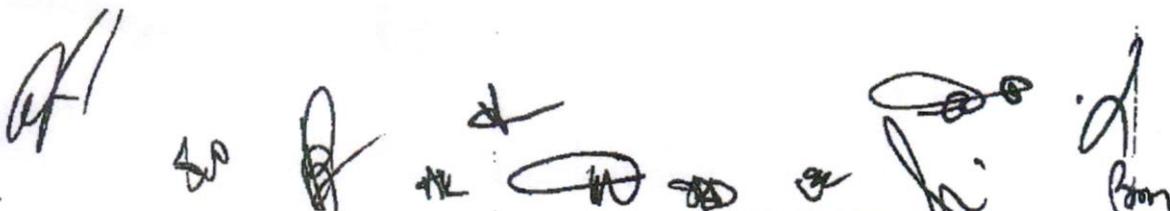
DETERMINED to address the disparities and to harmonize national legislations and regulations in matters of Air Transport Services;

DESIROUS to adopt a Common Community legal framework on Rules of Competition and Exemptions in Air Transport Services , for the member States of West Africa;;

ON THE PROPOSAL of the Meeting of Transport Ministers held in Yamoussoukro on the 17 September 2011;

HAVING received the opinion of the ECOWAS Parliament;

ON THE RECOMMENDATION of the Sixty-Seventh Session of the Council of Ministers held in Abuja, from 19 to 21 December 2011.

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HEREBY AGREE AS FOLLOWS

CHAPTER 1:

DEFINITIONS, OBJECTIVE AND SCOPE

Article 1: Definitions

For the purpose of this Regulation, the following terms shall have the meanings assigned to them;

Aeronautical Authority: any governmental authority, corporate body or organ duly authorized to perform this function;

Airline: Any air transport enterprise offering or operating any international air services.

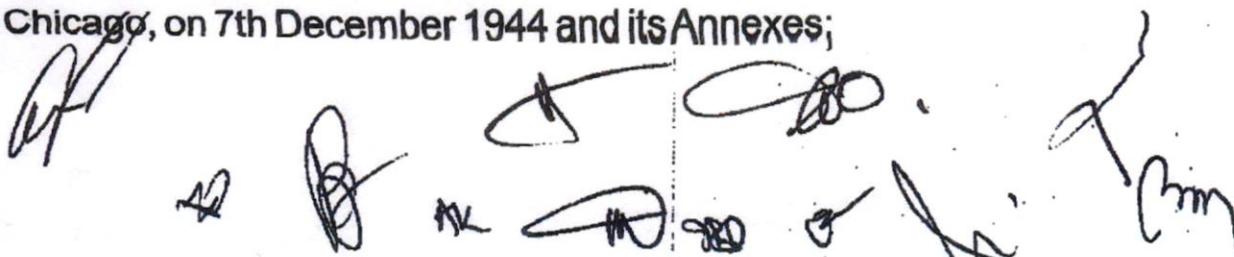
Air Service: any flight or series of flights carrying, subject to consideration, passengers, freight and/or mail;

Air Tariff: prices expressed in any currency of a member State to be paid for the carriage of passengers, freight and mail on an air service together with the applicable conditions of such prices, including the remuneration and conditions offered to agencies and other ancillary services;

Capacity: the number of seats and cargo space made available by an airline to the general public and /or the payload in freight and mail on air service over a given period and in a given sector;

Capacity Dumping: the introduction into a market of capacity far in excess of anticipated demand which is likely to have significant adverse impact upon a competing carrier or carriers;

Chicago Convention: Convention on International civil aviation signed at Chicago, on 7th December 1944 and its Annexes;

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Concerted practice: co-ordination between airlines that, without having reached the stage where an agreement properly so-called has been concluded, knowingly substitutes practical co-operation to the exclusion of competition;

Council: the Council of Ministers as established under Article 10 of the ECOWAS Revised Treaty;

Dominant position: a position of one or more airlines which enables them to prevent effective competition being maintained within the market or a part thereof, by giving them the ability to behave to an appreciable extent independently of their competitors, their suppliers, their customers or end-users;

ECOWAS Commission: ECOWAS Commission established in article 17 of the ECOWAS Revised Treaty as amended in June 2006;

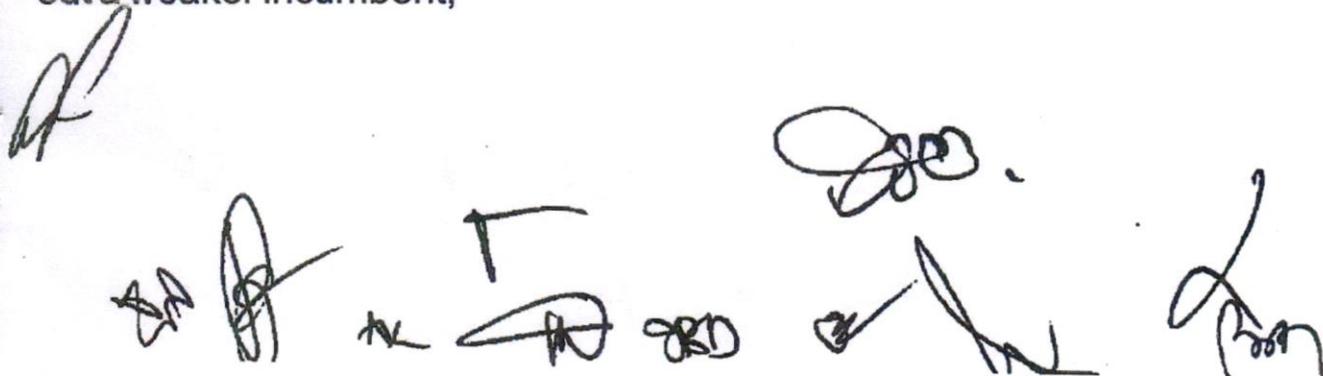
Inordinately high Pricing: the introduction by a carrier or carriers into a market of a price increase which is unreasonably high because of a lack of price competition, or abuse of a dominant position, or collusion;

Market: a relevant geographic area, including routes or sector thereof and a relevant air transport service provided by an airline;

Montreal Convention: Convention on the Unification of Certain Rules concerning International Air transport signed in Montreal 28th May 1999 replacing the convention of Warsaw signed on 12 October 1929 and its protocol Annexes;

Non-scheduled air service: Charter or special flights performed for remuneration on an irregular basis other than those operated under scheduled service.

Price Predation: the introduction by a carrier into a market of an excessively low price which is likely to be perceived as specifically designed, targeted and intended to keep out a new entrant carrier or to drive out a weaker incumbent;

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Regional Competition Authority: The structure responsible for the implementation of the competition rules established pursuant to Article 1 of the Supplementary Act A/SA 2/12/2008 on the establishment, function and operation of the regional competition authority for ECOWAS;

Scheduled air service: a series of flights with all the following characteristics:

- i) it is performed, subject to payment, with aircraft to carry passengers, freight and/or mail in such conditions that, on each flight, individual seats are made available to the public either directly by the airlines, or through its authorized agents;
- ii) it is organized for the purpose of connecting two airports or more: either according to a published schedule; or with such a regularity or frequency that it becomes part of an obvious systematic series;

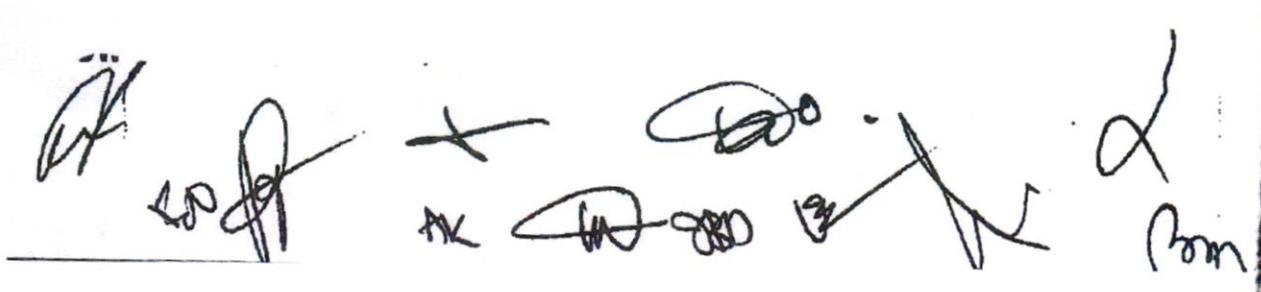
Trade association: an association of airlines with the aim of promoting cooperation activities of its members;

Traffic Right: The right granted to airline to carry passengers, freights and mail for remuneration.

Article 2: Objective and Scope

1. The community competition rules and the modalities for their implementation as defined in the Supplementary Act No. A/SA 1/11/08 dated 19 November 2008, shall apply to air transport services within the member States of ECOWAS;

2. The objective of the present Supplementary Act is to establish the modalities of exemption in matters of air transport services within the member States of ECOWAS.



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CHAPTER II

EXEMPTIONS CONCERNING JOINT PLANNING AND COORDINATION OF SCHEDULES, JOINT OPERATIONS AND JOINT CONSULTATIONS ON PASSENGERS AND FREIGHT TARIFFS ON REGULAR FLIGHTS

Article 3: Block Exemption

The Regional Competition Authority may authorize exemptions concerning agreements between airlines, decisions and concerted practices dealing with:

- the joint planning and coordination of the schedule of an air transport service by airlines,
- the joint operation of a scheduled air service on a new or on a low-density route,
- the holding of consultations on tariffs for the carriage of passengers, with their baggage, and of freight on scheduled air services.

Article 4: Special provisions for joint planning and coordination of schedules

The exemption concerning joint planning and coordination of the schedule of an air service shall apply provided the following conditions are fulfilled:

1. The planning and coordination are intended:
 - (a) to ensure by means of a non-binding arrangement a satisfactory supply of services during low traffic periods, or on low density routes; or

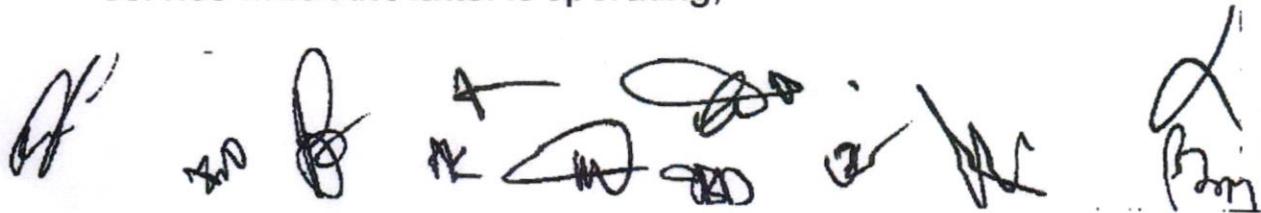
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- (b) to establish by means of a binding arrangement schedules which will facilitate interline connections for passengers, cargo or mail between services operated by the participants and minimum capacity to be provided for such schedules;
2. the agreements, decisions and concerted practices do not include arrangements which limit, directly or indirectly, the capacity to be provided or shared by the participants;
 3. the agreements, decisions and concerted practices do not prevent any other airlines taking part in the planning and coordination from introducing additional services, without incurring penalties and without being required to obtain the approval of the other participants;
 4. the agreements, decisions and concerted practices do not prevent any other airlines from withdrawing from the planning and coordination for future seasons without penalty on giving notice of not more than three (3) months notice to that effect;
 5. the agreements, decisions and concerted practices do not seek to influence the schedules adopted by airlines not participating in them.
 6. the agreements, decisions or concerted practices do not seek to nor have the effect of restricting access to, or preventing, any airline from operating on any particular route.

Article 5: Special provisions for joint operations

The exemption concerning the joint operation of an air service shall apply provided the following conditions are met:

1. the joint operation concerning the sharing, by one airlines, of the costs and revenues of another airlines in respect of a scheduled air service which the latter is operating;



2. there was no direct air service between the two airports concerned during all of the two traffic seasons preceding the beginning of the joint operation; or the capacity on the route covered by the joint operation does not exceed one-tenth of the seats per year in each direction;
3. neither party is prevented from operating additional air services on its own account between the two (2) airports concerned nor from independently determining the fares, capacity and schedules of such air services;
4. no other airline is prevented from operating air services between any two airports within ECOWAS member States.
5. either party can terminate the joint operation on giving notice of not more than three (3) months, to expire at the end of a traffic season.

Article 6: Special provisions for consultations on passenger and cargo tariffs

1. The exemption concerning the holding of consultation on tariffs and rates shall apply provided the following conditions are met:
 - (a) the participants only discuss air fares and cargo rates to be charged directly to a participating airline or to its authorized agents, for the carriage of passengers or freight on a scheduled service, as well as the conditions relating to those fares and rates. The consultations shall not extend to the capacity for which such tariffs are to be available;
 - (b) where the consultations give rise to interlining, air transport users must be able;
 - i. to combine on a single passenger ticket or cargo document the service which was the subject of the consultation, with services on the same or on connecting routes operated by other airlines, whereby the applicable fares, rates and conditions are set by the airlines(s) effecting carriage; and

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- ii. to the extent permitted by the conditions governing the initial reservation, to change a reservation on a service which was the subject of the consultations onto a service on the same route operated by another airlines at the fares, rates and conditions applied by that other airlines;

provided that an airlines may refuse to allow such combinations and changes of reservation on a non-discriminatory basis of a technical or commercial nature, in particular where the airlines effecting carriage is concerned with the credit-worthiness of the airlines who would be collecting payment for this carriage; in such case the latter airlines must be notified thereof in writing;

- © the passenger or cargo tariffs which are the subject of the consultations are applied by participating airlines without discrimination on grounds of the passenger's nationality or place of residence or on grounds of the origin of the freight;
- (d) participation in the consultations is voluntary and open to any airline which operates or intends to operate direct or indirect services on the route concerned;
- (e) the consultations are not binding on participants: following the consultations the participants retain the right to act independently in respect of passenger and cargo tariffs;
- (f) the consultations do not entail agreement on agents' remuneration or other elements of the tariffs discussed.
2. The Regional Competition Authority may send observers to tariff consultations. For this purpose, airlines shall give the Member States concerned and the Regional Competition Authority the same notice as is given to participants, but not less than fourteen (14) days notice, of the date, venue and subject matter of the consultations.

3. A full report on these consultations shall be submitted to Regional Competition Authority by or on behalf of the airlines involved at the same time as it is submitted to participants, but not later than forty five (45) days after those consultations were held.

Article 7: Withdrawal of the block exemption

The Regional Competition Authority may withdraw the benefit of the block exemption where it finds in a particular case that an agreement, decision or concerted practice exempted by this Supplementary Act, is incompatible or prohibited by Article 5 of the Supplementary Act No. A/SA 1/12/08 dated 19 December 2008 on the adoption of the community rules and the modalities of their application within ECOWAS.

CHAPTER III

RULES OF EXEMPTION WITH REGARD TO GROUND HANDLING SERVICES

Article 8: Block Exemption

The Regional Competition Authority may grant exemptions concerning ground handling services in airports of the ECOWAS member States.

Article 9: Ground handling services

The exemption granted under Article 8 shall apply to the following services:

1. all technical and operational services generally provided on the ground at airports, such as the provision of the necessary flight documents and information to crews, apron services, including loading and unloading, safety, aircraft servicing and refuelling, and operations before take-off;
2. all services connected with the handling of passengers, mail, freight

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and baggage, such as information to passengers and visitors, the handling of passengers and their baggage before departure and after arrival, and the handling and storage of freight and mail in conjunction with the postal services;

3. all services for the provision of in-flight catering, including the preparation, storage and delivery of meals and supplies to aircraft and the maintenance of catering equipment.

Article 10: Implementation of exemptions

The exemption shall apply only if:

1. the agreements, decisions or concerted practices do not oblige the airlines to obtain any or all of the ground handling services referred to in Article 9 exclusively from a particular supplier;
2. the supply of the ground handling services referred to in Article 9 is not tied to the conclusion of contracts for or acceptance of other goods or services which, by their nature or according to commercial usage, have no connection with the services referred to in Article 9 or to the conclusion of a similar contract for supply of services at another airport;
3. the agreements, decisions or concerted practices do not prevent an airline from choosing from the range of ground handling services offered by a particular supplier those it wants to take from that supplier and do not deny it the right to procure similar or other services from another supplier or to provide them itself;
4. the supplier of the ground handling services does not impose, directly or indirectly, prices or other conditions which are unreasonable and which in particular, bear no reasonable relation to the cost of the services provided;
5. ~~the~~ the supplier of the ground handling services does not apply dissimilar conditions to equivalent transactions with different customers;



6. the airline is able to withdraw from the agreement with the supplier of the ground handling services without penalty, on giving notice in accordance with the terms of the contract between the airline and the handling company, and in any case the period of the notice shall not exceed three (3) months.

Article 11: Withdrawal of Block exemption

The Regional Competition Authority may withdraw the benefit of the block exemption where it finds in a particular case that an agreement, decision or concerted practice exempted is incompatible or prohibited with the conditions laid down by Article 5 of the Supplementary Act No. A/SA 1/12/08 dated 19 December 2008 adopting community competition rules and the modalities of their application within ECOWAS.

CHAPTER IV

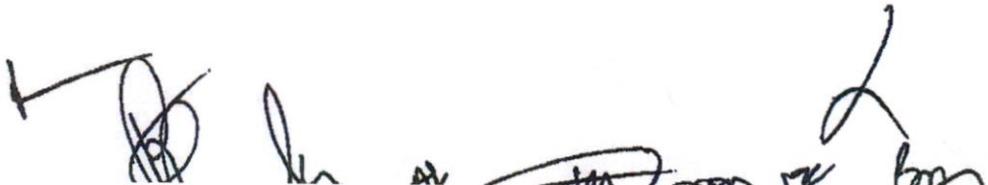
RULES OF PROCEDURE

Article 12: The Regional Competition Authority

The Regional Competition Authority in collaboration with the Air Transport Committee is hereby charged with the enforcement of the rules of procedure in matters of complaints, investigation and arbitration.

Article 13: Complaints, Investigation and Arbitration

1. Any Member State, airline or any concerned party may file a complaint before the Regional Competition Authority against a State, an airline, a ground handling company and any other person concerning an alleged breach of this present Supplementary Act.
2. The Rules and Procedures established under the provisions of ~~Articles~~ 3 to 11 of the Supplementary Act No. A/SA 2/12/08 dated 19



December 2008 on the establishment, functions and operation of the Regional Competition Authority for ECOWAS shall apply to the exemptions in matters of air transport services.

CHAPTER V

MISCELLANEOUS AND FINAL PROVISIONS

Article 14: Report and cooperation

1. Member States and the ECOWAS Commission shall cooperate for the implementation of this Supplementary Act
2. The ECOWAS Commission shall present a report to the Council on the enforcement of the Supplementary Act every two (2) years after their entry into force.
3. The ECOWAS Commission shall enter into cooperation with other international organizations for the purpose of implementing the present Supplementary Act.

Article 15: Amendments

Any Member State may submit proposal for amendment or revision of this Supplementary Act to the ECOWAS Commission in accordance with the provisions of article 90 of the ECOWAS Treaty relating to the procedures of amendment and revision.



Article 16: Entry into Force and Publication

1. This Supplementary Act shall enter into force from the date of its signature by the Authority of the Heads of State and Government of ECOWAS.
2. It shall be published in the Official journal of the Community, within thirty (30) days of its signature by the Authority of the Heads of State and Government of ECOWAS.

Article 17: Depositary Authority

This Supplementary Act shall be deposited at the Commission which shall transmit certified copies thereof to all member States and register same with the African Union (AU), the International Civil Aviation Organization (ICAO) and such other organizations as may be decided by the Council.

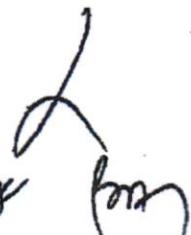
**IN FAITH OF WHEREOF, WE, THE HEADS OF STATE AND
GOVERNMENT OF THE ECONOMIC COMMUNITY OF WEST
AFRICAN STATES (ECOWAS)
HAVE SIGNED THIS SUPPLEMENTARY ACT**

DONE IN ABUJA, THIS 17th DAY OF FEBRUARY 2012

**IN SINGLE ORIGINAL, IN THE ENGLISH, FRENCH AND PORTUGUESE
LANGUAGES, ALL THREE TEXTS BEING EQUALLY AUTHENTIC**



Page 97





H. E. Thomas Boni YAYI
President of the Republic of Benin

H. E. Blaise COMPAORE
President of Burkina Faso

H.E. Jose Maria Pereira NEVES
Prime Minister and Head of the Government,
of the Republic of Cape Verde

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

H. E. Abdou KOLLEY
Minister of Fisheries, Water Resources
and National Assembly Matters
for and on behalf of the President
of the Republic of The Gambia

H.E. Alhaji Muhammad MUMUNI
Minister of Foreign Affairs and Regional Integration
for and on behalf of the President
of the Republic of Ghana

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

H.E. Raimundo PEREIRA
Interim President of the Republic of Guinea Bissau

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

H. E. Badara Aliou MACALOU
Minister of African Integration and Migrants Abroad,
and on behalf of the President of the Republic of M

H.E. Issoufou MAHAMADOU
President of the Republic of Niger

H. E. Goodluck Ebele JONATHAN, GCFR
President of the Federal Republic of Nigeria,
Chairman of the Authority of Heads of State
and Government of ECOWAS

H.E. Mamadou NDIAYE
Ambassador, Director of Cabinet to the Minister
of Foreign Affairs, for and on behalf of the President
of the Republic of Senegal

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

H. E. Elliott OHIN
Minister of Foreign Affairs and Cooperation,
for and on behalf of the President of the Togolese Republic

MINDFUL of the Decision relating to the implementation of the Yamoussoukro Declaration concerning the liberalization of Access to Air Transport Markets in Africa adopted on the 14th of November 1999 by the African Ministers in charge of civil aviation; and endorsed by the OAU Heads of State in Lome, Togo, in July 2000;

MINDFUL also of the Memorandum of Understanding (MOU) on the implementation of the Decision on the Liberalization of Air Transport in West and Central Africa signed by 23 States of West and Central Africa on 14 November 1999;

NOTING that acts of unlawful interference against civil aviation are detrimental to safe air transport;

AWARE OF the deficiencies observed in the ECOWAS member states in the framework of the Universal Security Audit Programme by the International Civil Aviation Organization (ICAO);

DETERMINED to safeguard Civil Aviation against acts of unlawful interference and also to enhance uniform Security measures within the ECOWAS region;

DESIROUS to adopt a Common Community legal framework on establishing common rules on aviation security in ECOWAS member States

ON THE PROPOSAL of the Meeting of Transport Ministers held in Yamoussoukro on the 17 September 2011;

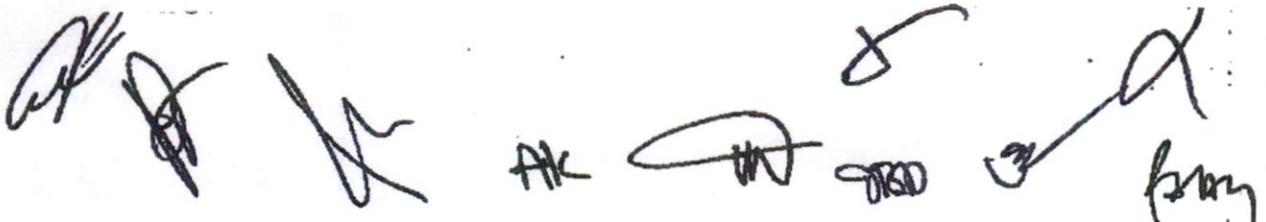
HAVING received the opinion of the ECOWAS Parliament;

ON THE RECOMMENDATION of the Sixty-Seventh Session of the Council of Ministers held in Abuja, from 19 to 21 December 2011.

HEREBY AGREE AS FOLLOWS

Article I: Definitions

For the implementation of this regulation, the following terms and expressions have the following meanings:

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Act of unlawful interference: Acts or attempted acts likely to jeopardize the safety of civil aviation and air transport, that is to say:

- Unlawful seizure of aircraft in flight;
- Unlawful seizure of aircraft on the ground;
- Hostage taking on board aircraft or on aerodromes;
- Forcible intrusion on board an aircraft, at an airport or on the premises of an aeronautical facility;
- Introduction on board an aircraft or at an airport of a weapon or hazardous device or material intended for criminal purposes;
- communication of false information such as to jeopardize the safety of an aircraft in flight or on the ground, of passengers, crew, ground personnel or the general public, at an airport or on the premises of a civil aviation facility.

Aerial work. An aircraft operation in which an aircraft is used for specialized services such as agriculture, construction, photography, surveying, observation and patrol, search and rescue, and aerial advertisement.

Aircraft: Any machine that can derive support in the atmosphere from the reactions of the air other than reactions of the air against the earth's surface;

Aircraft in flight: An aircraft from the moment when all its external doors are closed following embarkation until the moment when such doors are opened for disembarkation.

Aircraft in operation: An aircraft is considered in operation from the commencement of the preparation of a flight to the end of it.

Aircraft in service: A parked aircraft which is under surveillance sufficient to detect unauthorized access.

Aircraft maintenance area: All the ground space and facilities provided for aircraft maintenance. This includes aprons, hangars, buildings and workshops, vehicle parks and roads associated therewith. Such an area is normally designated as a security restricted area.

Aircraft not in service: An aircraft that either is parked for a period of more than 12 hours or is not under surveillance sufficient to detect unauthorized access.

Aircraft operators' documents: Air waybills/consignment notes, passenger tickets and boarding passes, bank and agent settlement plan documents, excess baggage tickets, miscellaneous charges orders (M.C.a.), damage and irregularity reports, baggage and cargo labels, timetables, and weight and balance documents, for use by aircraft operators.

Aircraft security check: An inspection of the interior of an aircraft to which passengers may have had access and an inspection of the hold for the purposes of discovering suspicious objects, weapons, explosives or other dangerous devices, articles and substances.

Aircraft security control: Inspection of the interior of an aircraft of which passengers must have had access and inspection of the bunker to discover suspicious objects, weapons, explosives or other dangerous devices.

Aircraft security search: A thorough inspection of the interior and exterior of the aircraft for the purpose of discovering suspicious objects, weapons, explosives or other dangerous devices, articles or substances.

Aircraft stand: designated location on an apron intended to be used for parking aircraft.

Airport: Piece of land specially adapted for landing, takeoff and aircrafts operation including the ancillary installations which may include requirements for traffic and service of aircraft and facilities needed to assist commercial air services.



Bomb alert: A status of alert put in place by competent authorities to activate an intervention plan intended to counter the possible consequences arising from a communicated threat, anonymous or otherwise, or arising from the discovery of a suspect device or other suspect item on an aircraft, at an airport or in any civil aviation facilities.

Bomb threat: A communicated threat, anonymous or otherwise, which suggests, or infers, whether true or false that the safety of an aircraft in flight or on the ground, or any airport or civil aviation facility or any person may be in danger from an explosive or other item or device.

Cabin baggage: luggage to be carried in the cabin of an aircraft

Cargo: Any property carried on an aircraft other than mail, stores and accompanied or mishandled baggage.

Cargo area: All the ground space and facilities provided for cargo handlings. It includes aprons, cargo buildings and warehouses, vehicle parks and roads associated therewith.

Cargo building: A building through which cargo passes between air and ground transport and in which processing facilities are located, or in which cargo is stored pending transfer to air or ground transport.

Catering stores: All items, other than catering supplies, associated with passenger in-flight services, for example newspapers, magazines, headphones, audio and video tapes, pillows and blankets, and amenity kits.

Catering supplies: food, drinks and other items and related equipment used aboard an aircraft.

Certification: A formal evaluation and confirmation by or on behalf of the appropriate authority for aviation security that a person possesses the necessary competencies to perform assigned functions to an acceptable level as defined by the appropriate authority.

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Check-in: The process of reporting to an aircraft operator for acceptance on a particular flight.

Check-in position: The location of facilities at which check-in is carried out.
Co-mail. Abbreviation of aircraft operator company mail, shipped within the company's network of stations.

Co-mail: Abbreviation of air carrier mail that it is shipping to one of its network stations.

Co-mat: Abbreviation of air carrier material that it is shipping to one of its network stations.

Commercial Flight: scheduled or non - scheduled flight activity conducted under a tenancy agreement intended for the general public or private groups subject to compensation.

Commercial air transport operation: An aircraft operation involving the transport of passengers, cargo or mail for remuneration or hire.

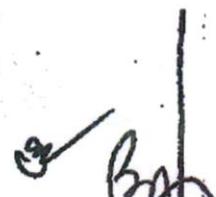
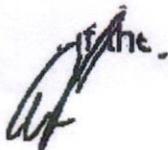
Note.- For the purpose of this manual, the term "aircraft operator" will be used instead of a "commercial air transport operator".

Community: The Economic Community of West African States as referred to in article 2 of the ECOWAS Revised Treaty;

ECOWAS Commission: ECOWAS Commission as established in article 17 of the ECOWAS Revised Treaty as amended in June 2006;

Courier traffic: fast shipments of goods (including packages) by air, road, rail and water.

Contingency plan: A "proactive" plan to include measures and procedures addressing various threat levels, risk assessments and the associated security measures to be implemented, designed to anticipate and mitigate events as well as prepare all concerned parties having roles and responsibilities in the event of an actual act of unlawful interference. A contingency plan sets forth incremental security measures that may be



elevated as the threat increases. It may be a stand-alone plan or included as part of the Crisis Management Plan.

Continuous Random Checks: Checks done during the entire period of operation of a screening post and during which some users are searched at random.

Chicago Convention: Convention on International Civil Aviation signed in Chicago in December 7, 1944 and its Annexes

Corporate aviation: The non-commercial operation or use of aircraft by a company for the carriage of passengers or goods as an aid to the conduct of company business, flown by a professional pilot employed to fly the aircraft. (Note that corporate aviation is a subset of general aviation).

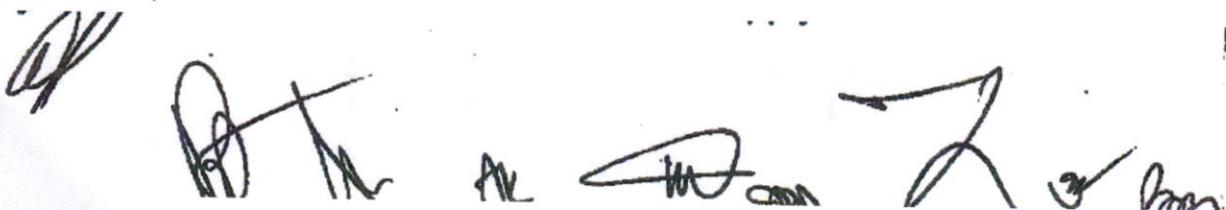
Council: Council of Ministers as established in article 10 of the ECOWAS Revised Treaty.

Courier service: An operation whereby shipments tendered by one or more shippers are transported as the baggage of a courier passenger on board a scheduled aircraft operator service under normal passenger hold baggage documentation.

Crew member: A person assigned by an operator to duty on an aircraft during a flight duty period.

Crisis management: Contingency measures implemented in response to increased threat levels as well as implementation of measures and procedures in response to the emergencies to include acts of unlawful interference.

Dangerous goods: Articles or substances which are capable of posing a risk to health, safety, property or the environment and which are shown in the list of dangerous goods in the Technical Instructions or which are classified according to those Instructions.

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Deportee: A person who had legally been admitted to a State by its authorities or who had entered a State illegally, and who at some later time is formally ordered by the competent authorities to leave that State.

Note:- The competent authorities may provide an escort for such persons.

Diplomatic pouch (bag): A shipping container having diplomatic immunity from search or seizure.

Direct transit area: A special area established in an international airport, approved by the public authorities concerned and under their direct supervision or control, where passengers can stay during transit or transfer without applying for entry to the State.

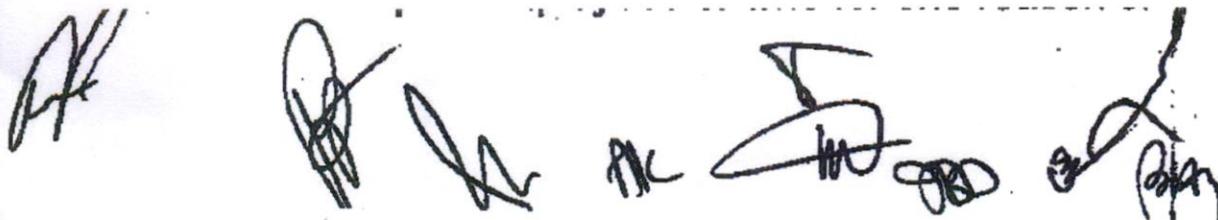
Disruptive passenger: A passenger who fails to respect the rules of conduct at an airport or on board an aircraft or to follow the instructions of the airport staff or crew members and thereby disturbs the good order and discipline at an airport or on board the aircraft.

Domestic Airport: Any airport other than an international airport serving domestic traffic.

Emergency plan: The plan setting forth the procedures for coordinating the response of different aerodrome agencies (or services) and of those agencies in the surrounding community that could be of assistance in responding to the emergency.

Explosives Detector (EDS): A system or combination of different technologies that can through an alarm system detect and indicate the presence of explosive material in a luggage, regardless of the material.

Explosive substance: Solid or liquid substance (or mixture of substances) which is in itself capable by chemical reaction of emitting gases at such a temperature, pressure and speed as to cause damage in the surrounding area. This definition includes pyrotechnic substances, even if they do not emit gases. Those substances that are in themselves



not explosive but may produce an explosive atmosphere of gas, vapor or dust are not included.

Facilitation: Efficient management of a required control procedure to speed up the transport of persons or goods and save avoidable operational delays.

Freight : (see cargo)

General aviation branch: All activities of regular or non regular flights which are neither offered nor available to the general public.

Hold baggage: Luggage to be carried in the booth of an aircraft;

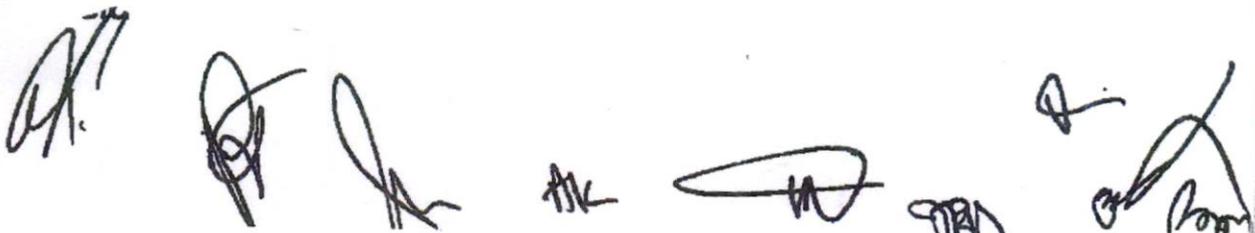
Human Factors principles: Principles which apply to aeronautical design, certification, training, operations and maintenance and which seek safe interface between the human and other system components by proper consideration to human performance.

Human Performance: Human capabilities and limitations which have an impact on the safety, security and efficiency of aeronautical operations.

Identification cards: See Permits.

Inadmissible person: A person who is or will be refused admission to a State by its authorities. Such persons normally have to be transported back to their State of departure, or to any other State where the persons are admissible, by the aircraft operator on which they arrived. (See appropriate Standards in Annex 9 - Facilitation, Chapter 5.)

In-flight security officer: A person who is employed and trained by the government of the State of the Operator or by the government of the State of registration to be deployed on an aircraft with the purpose of protecting that aircraft and its occupants against acts of unlawful interference. This excludes persons employed to provide exclusive personal protection for one or more specific people travelling on the aircraft, such as personal bodyguards.

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Integrated/consolidated cargo: A consignment of multi-packages which has been originated by more than one person, each of whom has made an agreement for carriage by air with another person other than a scheduled aircraft operator.

Interline baggage: Baggage of passengers subject to transfer from the aircraft of one operator to the aircraft of another operator in the course of the passenger's journey.

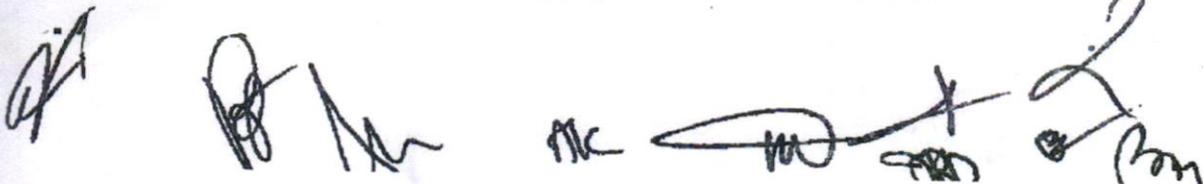
International Airport : Any airport that the member State, in whose territory it is located, has designated as an airport of entry and exit for international air traffic and where customs, immigration, Health, veterinary and phytosanitary controls and other analogues formalities take place.

Item: Items of correspondence and other items delivered by postal administrations or their intended. The definition of postal authority / administration lies with the Member States.

Known consignor:

- a) For cargo, the person who has originally undertaken to transport the goods by aircraft for its own account and who deals with a regulated agent or airline based on the criteria of this Annex.
- b) For mail, the person who originally undertakes to carry mailings for its own account and who treats in a monitoring way with a regulated postal / administrative authority.

Known supplier of LAGs and/or Known supplier of STEBs: Entity that ensures implementation of the security controls on and protection from unauthorized interference with supplies of liquids, gels and aerosols (LAGs) or supplies of secure tamper-evident bags (STEBs), respectively, from their first point of entry on airside until their delivery to passengers. The known supplier of LAGs and/or the known supplier of STEBs fully accepts responsibility, by written declaration, for the introduction and quality control of LAGs and STEBs within the supply chain on the airside.

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LAGs: Liquids, aerosols and gels, in any volume, for sale at airport outlets (excluding food and beverages for consumption in the airport premises and not intended for carriage into the aircraft passenger cabin) or on board aircraft during the day(s) of the journey, either in the airside area or in a security-restricted area.

Landside: Area of an airport or airport terminal with unrestricted access to passengers and the general public.

Mail: Dispatches of correspondence and other items tendered by and intended for delivery to postal services in accordance with the rules of the Universal Postal Union (UPU).

Member State: A State party to the ECOWAS Revised Treaty;

Movement area: Part of an aerodrome to be used for takeoffs, landings and movement of aircraft on the surface, which includes the area of maneuvers and traffic areas.

Mishandled baggage: Baggage involuntarily, or inadvertently, separated from passengers or crew.

Movement area: That part of an aerodrome to be used for the take-off, landing and taxiing of aircraft, consisting of the maneuvering area and the apron(s).

Narcotics control: Measures to control the illicit movement of narcotics and psychotropic substances by air.

Non-restricted area: Areas of an airport to which the public have access or to which access is otherwise unrestricted.

Non-scheduled Flights: Flights that do not exhibit the characteristics of a regular flight. Flights on demand, charter flights, VIP flight and state flight.

Permits (access card or badges): The Permit system consists of cards or other documents issued to airport employees or who for one reason or

another need to be allowed access to the airport, the airside area or a restricted security zone.

Program security: Measures to protect international civil aviation against acts of unlawful interference.

Primary Explosives Detection System (PEDS): A system or combination of technology that has the ability to detect and subsequently indicate, through an alarm, the presence of an explosive contained in a luggage, irrespective of the material used in making the luggage.

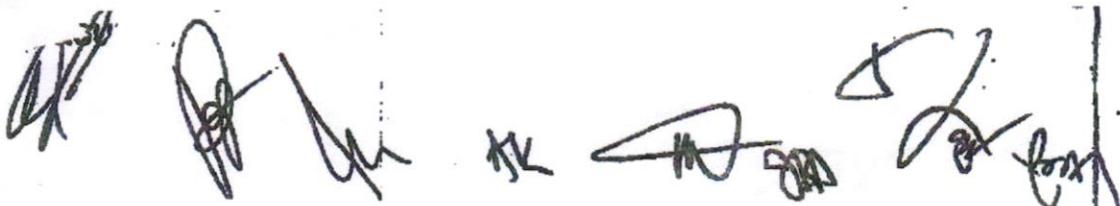
Prohibited article: Object and material that and can be used to commit an act of unlawful interference and have not been properly declared and subjected to laws and regulations;

Regulated agent: An agent, freight forwarder or any other entity who conducts business with an operator and provides security controls that are accepted or required by the appropriate authority in respect of cargo or mail.

Regular Flights: Flights possessing all of the following characteristics:

- made, for consideration, by means of aircrafts designed to carry passengers, cargo and / or mail in such a manner that on each flight, seats are available to the general public, either directly by the air carrier or its authorized agents,
- Organized so as to serve traffic between two or more points:
 - According to a public timetable ;
 - Either with a regularity or frequency that constitute a recognizable systematic series.

Restricted articles: Articles which are, in the specific context of aviation security, defined as those articles, devices or substances which may be used to commit an act of unlawful interference against civil aviation or which may endanger the safety of the aircraft and its occupants, or installations and the public.

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Sabotage: Any act or deliberate omission designed to destroy maliciously or without reason any property and endangering of international civil aviation and its facilities and services or constitutes an act of unlawful interference with civil aviation and its facilities and services.

Screening: The application of technical or other means which are intended to identify and/or detect weapons, explosives or other dangerous devices, articles or substances which may be used to commit an act of unlawful interference.

Note:-Certain dangerous articles or substances are classified as dangerous goods by Annex 18 and the associated Technical Instructions for the Safe Transport of Dangerous Goods by Air (Doc 9284) and must be transported in accordance with those instructions.

Security: Safeguarding civil aviation against acts of unlawful interference. This objective is achieved by a combination of measures and human and material resources.

Security audit: An in-depth compliance examination of all aspects of the implementation of the national civil aviation security programme.

Security checks for LAGs and STEBs: Visual checks or security controls, performed by security staff, for signs of interference, in particular tampering with seals, theft and the introduction of potentially dangerous devices, articles or substances. The checks should be made at the first point of entry on the airside. The checks should be made on all supplies of LAGs and STEBs to establish that they have been protected, that there is no evidence or suspicion of tampering, and that the necessary documentation is in order.

Security control: A means by which the introduction of weapons, explosives or other dangerous devices, articles or substances which may be used to commit an act of unlawful interference can be prevented.

Security equipments: means device of a specialized nature for use individually or as part of a system, in the prevention or detection of acts of unlawful interference with civil aviation and its facilities.

Security Restricted Area: Those areas of the airside of an airport which are identified as priority risk areas where in addition to access control, other security controls are applied. Such areas will normally include, inter alia, all commercial aviation passenger departure areas between the screening checkpoint and the aircraft, the ramp, baggage make-up areas, including those where aircraft are being brought into service and screened baggage and cargo are present, cargo sheds, mail centers, airside catering and aircraft cleaning premises.

Sterile area: The area between any passengers screening point and the aircraft and to which access is strictly controlled (also called restricted security zone).

Security exercise: A full-scale security exercise is a simulated act of unlawful interference with the objective of ensuring the adequacy of the contingency plan to cope with different types of emergencies. A partial security exercise is a simulated act of unlawful interference with the objective of ensuring the adequacy of the response to individual participating agencies and components of the contingency plan, such as the communications system.

Security inspection: An examination of the implementation of relevant national civil aviation security programme requirements by an airline, airport or other entity involved in security.

Security investigation: An inquiry into any act or attempted act of unlawful interference against civil aviation and/or any alleged or suspected instance of non-compliance with the State's National Civil Aviation Security Programme or other legal and/or regulatory requirements pertaining to civil aviation security.

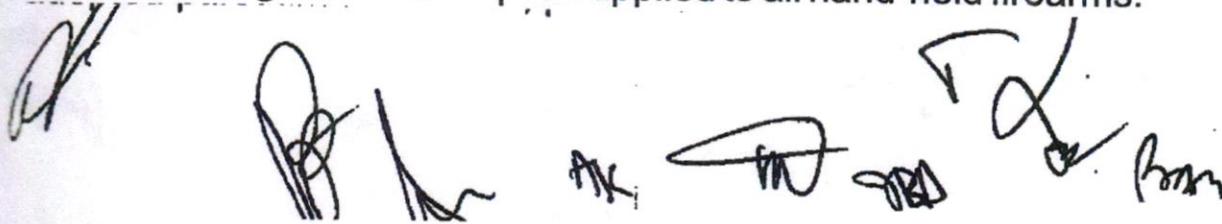
Security programme: Written measures adopted to safeguard international civil aviation against acts of unlawful interference.

Security survey: An evaluation of security needs including the identification of vulnerabilities which could be exploited to carry out an act of unlawful interference, and the recommendation of corrective actions.

Security test: A covert or overt trial of an aviation security measure which simulates an attempt to commit an unlawful act.

Service panel: Aircraft external access point used for providing aircraft services; such include water, lavatory, ground electrical outlets and other service compartments that have external clip-down panels.

Small arms: A general description applied to all hand-held firearms.

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State of Registry: The State on whose register the aircraft is entered.

STEBs: Security tamper-evident bags that should only be used for the sale of LAGs by airport outlets or on board aircraft.

Stores (Supplies):

- Stores (Supplies) for consumption. Goods, whether or not sold, intended for consumption by the passengers and the crew on board aircraft, and goods necessary for the operation and maintenance of aircraft, including fuel and lubricants.
- Stores (Supplies) to be taken away. Goods for sale to the passengers and the crew of aircraft with a view to being landed.

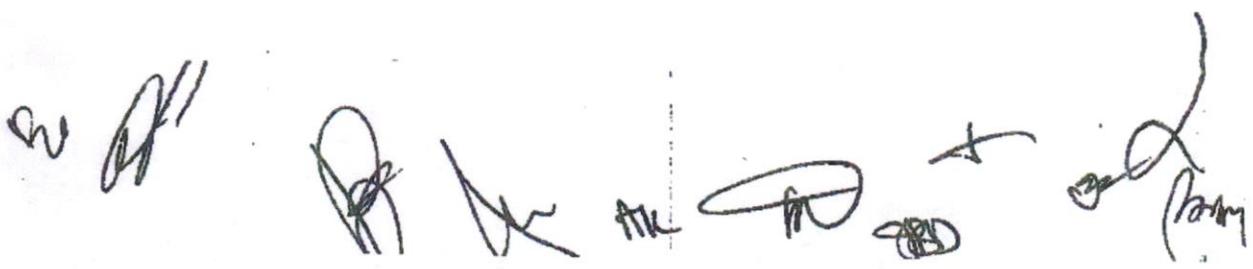
Supply of in-flight services: all items other than food supplies, which are intended to serve passengers during flight, such as newspapers, magazines, headphones, audio and video cassettes, pillows and blankets, toiletries, etc..

Supplies: consumer items to be sold or used on board an aircraft during flight, including catering service staff.

Terminal: The main building or group of buildings where the processing of commercial passengers and freight and the boarding of aircraft occurs.

Threat Image Projection (Threat Image Projection « TIP »): Software that can be installed on some x-ray luggage. The program allows the overlying of virtual images of prohibited items in the image of a real luggage subjected to X-ray control and directly contributes to increasing the capacity of the operator to detect such items.

Trace detection equipment: A system or combination of different technologies that can detect very small quantities (1 billionth of a gram) and indicate through an alarm system the presence of explosives in luggage or other items.

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Traffic area: Defined area on a land aerodrome, intended to accommodate aircraft for embarking or disembarking passengers, loading or unloading of mail or cargo, refueling or resumption of fuel, parking or maintenance.

Transfer passengers/baggage: Passengers/baggage making direct connections between two different flights.

Transit passengers: Passengers departing from an airport on the same flight as that on which they arrived.

Travel document: A passport or other official document of identity issued by a State or organization which may be used by the rightful holder for international travel.

Unaccompanied baggage: Baggage that is transported as cargo and may or may not be carried on the same aircraft with the person to whom it belongs.

Unaccompanied hold baggage: Luggage allowed in the booth of an aircraft for transportation and checked in by a passenger not on board the flight.

Unclaimed baggage: Baggage that arrives at an airport and is not picked up or claimed by a passenger.

Unidentified baggage: Baggage at an airport, with or without a baggage tag, which is not picked up by or identified with a passenger.

Unruly passengers: Persons who commit on board a civil aircraft, from the moment when the aircraft door is closed prior to take-off to the moment when it is reopened after landing, an act of:

- assault, intimidation, menace or willful recklessness which endangers good order or the safety of property (persons;

- assault, intimidation, menace or interference with a crew member in the performance of duties or which lesser the ability to perform duties;
- willful recklessness or damage to an aircraft, its equipment, or attendant structures and equipment such as 1 endanger good order and safety of the aircraft or its occupants;
- communication of information which is known to be false, thereby endangering the safety of an aircraft in flight;
- disobedience of lawful commands or instructions for safe, orderly or efficient operations.

Unregulated Area: Any area of an airport to which the public has access or where access is not regulated.

Vulnerable point: Any facility located at the Airport or connected thereto where deterioration or destruction would seriously harm airport functioning.

V.I.P (Very Important Person): Passengers belonging to a certain social class, giving them the right to special treatment different from that of an ordinary passenger.

Article 2: Purpose

1. The primary objective of this Supplementary Act is to enable the ECOWAS member states ensure the safety of passengers, crew, ground personnel and the general public in all matters related to acts of unlawful interference against civil aviation in ECOWAS member States.

In this regard, the present Supplementary Act lays down measures to prevent weapons, explosives or other dangerous devices which can be used to commit an act of unlawful interference, and which the carriage of these dangerous devices is not allowed to be introduced by any means whatsoever inside buildings and sensitive facilities or any building defined as such or on board an aircraft, in civil aviation. The Supplementary Act also defines the conditions for implementing these measures.

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2. The Supplementary Act also aims at providing a common basis for the interpretation and application of relevant provisions of the Chicago Convention, and its Annex 17 in particular.

Article 3: Scope

The provisions in this Supplementary Act shall apply to all airports in the territories of the ECOWAS Member States.

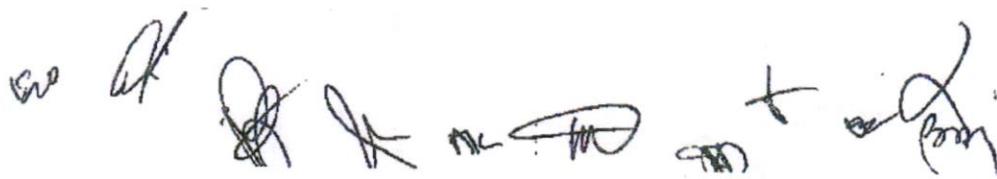
Article 4: Means of implementation

To achieve the objectives defined in Article 2 above, member States and the ECOWAS Commission shall implement the following:

- a) Define common basic standards applicable to aviation security measures;
- b) Establish appropriate mechanisms for monitoring the conformity with the application of these standards.

Article 5: Common Standards

1. The basic standards applicable to the civil aviation common security measures are based on standards and recommended practices of Annex 17 of the Chicago Convention and the norms contained in the Articles of this Supplementary Act and any other legal instrument of ECOWAS and ICAO applicable to the member States.
2. The necessary measures for the implementation and the technical adaptation of these common basic standards are adopted, by way of Regulation of the ECOWAS Council of Ministers by taking due account of the different types of operations and of the sensitive character of the related measures:
 - a) performance criteria and the possibilities of technical equipments;
 - b) detailed procedures containing sensitive information;
 - c) detailed criteria concerning exemption from security measures.



3. Based on an assessment of local threats, if security measures specified in the Regulation which form Appendix 1 of this Supplementary Act cannot be implemented for practical reasons and objectives, ECOWAS member states may adopt security measures to ensure adequate protection in their airports. They shall notify the ECOWAS Commission of such measures.
4. The Commission examines whether the measures adopted by the Member States in accordance with paragraph 3 above are justified for practical reasons and provide adequate protection. If the measures do not meet these criteria, the Commission may advise the state to adapt and take the necessary decision.

Article 6: More stringent measures

1. Member States may apply more stringent measures than those provided for in this Supplementary Act, taking into account the relevant provisions of Annex 9 to the Chicago Convention.
2. The concerned States shall inform the ECOWAS Commission of the nature of these measures within one (1) month after their entry into force.
3. The ECOWAS Commission is responsible for communicating these measures to other states.

Article 7: National Organization for Civil Aviation Security

1. Each member State shall establish and implement practices and procedures specified in this Supplementary Act, which will ensure appropriate aviation security necessary to operate the aircraft under normal conditions and can react quickly to cope with any increased threats against civil aviation security.
2. Within three (3) months after the entry into force of this Supplementary Act, each member State will adopt a National Civil Aviation Security Program to ensure the application of common standards referred to in Article 5, paragraph 1 and the measures adopted pursuant to Article 5, paragraph 2.

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3. Each member State shall designate and specify to ECOWAS Commission an appropriate authority within its administration, to be responsible for the development, implementation and maintenance of the National Civil Aviation Security Program.
4. Each member State shall ensure that the appropriate authority arranges for the financial and human resources necessary for achieving the goals outlined in its National Civil aviation Security Program.
5. Within three (3) months following the adoption of the National Civil Aviation Security Program, each member State shall establish a National Security Committee or a similar arrangement to coordinate security activities between ministries, departments and other state agencies, airport operators and airlines and other entities involved in or responsible for the implementation of various aspects of the National Civil Aviation Security Program.
6. National Security Committee will be formed at the discretion of the States and must include the Ministries and law enforcement agencies involved in Aviation Security for civil aviation, defense, border control, customs, equipment and foreign affairs and any other ministry.
7. Each member State shall regularly reassess the level of threat against civil aviation operations within its territory and adjust to the relevant elements of its National Civil Aviation Security Program.
8. Each member State shall require the competent authority to define and distribute tasks and to coordinate activities between ministries, departments and other state agencies, airport operators and airlines and other entities involved in or responsible for the implementation of various aspects of the National Civil Aviation Security Program.
9. Six (6) months after the entry into force of this Supplementary Act, each member State's competent authority shall develop and implement a National Program for Quality Control to ensure the effectiveness of its National Civil Aviation Security Program.

The specifications of the National Quality Control Program for civil aviation security implemented by member States in order to identify security needs and to conduct inspections of the implementation procedure and testing of security controls, to ensure the effectiveness of its National Civil Aviation Security Program shall be adopted in accordance with the procedure provided for in this Supplementary Act.

10. Each member State shall ensure that the competent authority to develop and implement a National Civil Aviation Security Training Program.
11. Each member State shall establish at each airport, an emergency plan, emergency operations center (EOC) and facilities that are periodically tested by security drills and put in place a crisis management team for any act of unlawful interference against civil aviation.
12. Each member State shall ensure the presence at its airports of properly trained personnel who can intervene in case of suspected or real unlawful interference against civil aviation.
13. In each member State, airports, aircraft operators providing services from these airports, ground handlers and all service providers shall implement and maintain security programs that meet the respective requirements of its National Civil Aviation Security Program.

These programs are subject to approval by the competent authority which supervises it.

Article 8: Measures relating to airport organization

1. Each Member State shall ensure that an authority at each airport serving civil aviation is responsible for coordinating the implementation of security measures covered by the present Supplementary Act.

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2. This authority shall establish and implement an Airport security program to meet the requirements of the National Civil Aviation Security Program.
3. Each Member State shall establish a Security Committee for its airport on airports assisting the authority referred to in paragraph 1 above.
4. Airport Security Committee includes, among others, appropriate authorities, airport operators, law enforcement agencies, aircraft operators, airlines ground handling, freight forwarders, tenants, service providers and all users whose presence is deemed necessary by the State.
5. Each Member State shall ensure that, as part of the design or layout of airports, basic requirements for air terminals for passengers or cargo and other airport buildings offering direct access to the airside, are met following:
 - a) security measures for passengers, baggage, cargo, express mail and provisions and supplies of catering services for airlines;
 - b) protection and access control along runways, security restricted areas and other airport sensitive installations;
 - c) Effective use of security equipment.

Article 9: Implementation of security measures

1. Each Member State shall ensure at each airport, the presence of authorized and adequately trained personnel to implement the measures and security procedures.
2. Each Member State defines the number of authorized personnel, trained and assigned to an airport, in agreement with the authority referred to in Article 8 paragraph 1. These personnel shall be tasked with security duties only. A security official is appointed head of the security department of each structure.

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3. Each Member State shall require the competent authority to establish a performance contract between the authority referred to in Article 8 paragraph 1, and the security services to ensure efficiency and quality in the implementation of security measures and checks.

Article 10: Dissemination of information

1. Without Prejudice, right of access to the public, to community documents is strictly confidential:
 - a) Measures and Specifications related to Article 5 paragraph 2 and 3;
 - b) Inspection reports and responses from the member States referred to in paragraphs 2 and 3 of this article.

These documents can only be accessed by the authority referred to in Article 7 paragraph 3, who communicates it to relevant parties

2. In the best possible way and in conformity with applicable domestic law, member States shall treat as confidential, information from inspection reports and responses of Member States when relating to other states.
3. If it is clear that the inspection reports and answers shall not be disclosed, states or the ECOWAS Commission shall consult the member State concerned.

Article 11: Coordination of administrative measures for civil aviation Security programs

1. The coordination of the administrative measures for the civil aviation security program and dissemination of reports is ensured by an established mechanism.
2. A coordinator will be recruited hired by the ECOWAS Commission after notice of vacancy, to oversee this process. He will be assisted

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- a) sharing as far as possible with the third States, information on the threat against the interests of those States in respect of civil aviation security ;
 - b) Developing and exchanging information on their national security, civil aviation training and quality control programs as required.
2. Each member State shall establish appropriate procedures for the protection and treatment of sensitive information relating to security provided by other Member States, or sensitive information related to security with implications on the safety interests of other states and prevent that such information should be used or disclosed inappropriately.
 3. Each member State reports through the Aeronautical Fixed Telecommunication Network (AFTN) or any other any other o all Member States, the Registration and holding State, all the necessary information in cases when:
 - a) an aircraft is diverted to land at an airport in its territory;
 - b) a hijacked aircraft lands on its territory;
 - c) a hijacked aircraft takes off from its territory.
 4. The available information is also provided:
 - a) To any other State whose nationals were taken hostage;
 - b) To any other State whose nationals were killed or wounded;
 - c) To any other State whose nationals are known to be on board the aircraft;
 - d) To the International Civil Aviation Organization (ICAO).

Article 15: Conformity Checks

1. Six (6) months after the entry into force of this Supplementary Act in accordance with Article 19, the Commission, in cooperation with the competent authority referred to in Article 7 paragraph 3, shall

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in his task by the Advisory Committee on Civil Aviation Security, under Article 12 below

Article 12: Advisory Committee on Civil Aviation Security

1. There shall be established an Advisory Committee on Aviation Security for ECOWAS.
2. The Advisory committee shall be composed of two experts per Member State and a representative of ECOWAS Commission.
3. The Advisory Committee shall be chaired by the representative of ECOWAS Commission and meets in ordinary session at least once a year and extraordinarily whenever necessary.
4. The Advisory Committee for Aviation Security shall advise on all matters relating to security before it. It proposes to the Commission the program of inspections for implementation by member States of the National Quality Control for security Program, the organization of crisis management as well as any practice and procedure relating to the application of this Regulation.
5. The Advisory Committee shall adopt its rules of procedure.
6. The funding of the activities of the constituted Advisory Committee on Aviation Security shall be by the ECOWAS Commission.

Article 13: Remuneration for service delivery

Fees may be charged by ECOWAS Members State for security services provided. A Regulation from the ECOWAS Council of Ministers sets the terms of these fees.

Article 14: Cooperation with third countries

1. Member States shall provide mutual assistance and support in maintaining an acceptable level of civil aviation security, including:

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carry out inspections to ensure the application of this Supplementary Act by the member States.

2. The inspections call for a common methodology on conformity check shall be defined in a regulation. These inspections shall be performed by qualified inspectors, according to common criteria, and take into account information provided by the National Program for Quality Control.

The methodology of these inspections is adopted by Regulation of the Council of Ministers.

3. Experts mandated by the ECOWAS Commission in conducting inspections in accordance with paragraphs 1 and 2 of this article, before performing their task shall be issued a document by Commission, specifying the nature, purpose of inspection and duration. The Commission shall inform the member States concerned of the inspections within a reasonable time frame before the scheduled inspections.

The member State concerned shall submit to such inspections and shall ensure that bodies or persons concerned also submit to it.

4. The transmission time of inspection reports to the states by the Commission, the development of action plans to remedy any deficiencies found during inspections are defined in the Supplementary Act relating to common methodology.

Article 16: Relations with third countries

Without prejudice to the responsibilities of the member States regarding the threat assessment and the typical clause for safety of air transport agreements, the Commission assisted by the Advisory Committee for Civil Aviation Security, set up in collaboration with the International Civil Aviation Organization (ICAO), African Civil Aviation Commission (AFCAC) and other regional civil aviation organizations, a mechanism to ensure that flights from airports in third countries, meet the essential security requirements.

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Article 17: Penalties for security breach

Pending Community rules on the subject, any breach of this Supplementary Act shall be subject to the requirements of the laws in force in member States.

Article 18: Report and cooperation

1. The ECOWAS Commission shall present a report to the Council on the enforcement of the Supplementary Act two (2) years after its entry into force.
2. ECOWAS Commission shall annually publish a report on the status of implementation of this Supplementary Act and the situation regarding civil aviation security in the member States.
3. The ECOWAS Commission shall enter into cooperation with other International Organizations for the purpose of implementing the present Supplementary Act.

Article 19: Implementation of the Supplementary Act

1. The member States shall take all necessary legislative and regulatory measures for effective implementation of the present Supplementary Act.
2. The ECOWAS member States shall communicate to ECOWAS Commission any measures concerning the implementation of the present Supplementary Act.

Article 20: Amendments

1. Any Member State may submit proposal for amendment or revision of this Supplementary Act to the ECOWAS Commission.

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- 2 Such proposed amendment shall be subject to the provisions of article 90 of the ECOWAS Treaty relating to the procedures of amendment and revision.

Article 21: Entry into Force and Publication

1. This Supplementary Act shall enter into force from the date of its signature by the Authority of the Heads of State and Government of ECOWAS.
2. It shall be published in the Official journal of the Community, within thirty (30) days of its signature by the Authority of the Heads of State and Government of ECOWAS.

Article 22: Depository Authority

This Supplementary Act shall be deposited at the Commission which shall transmit certified copies thereof to all member States and register same with the African Union (AU), the International Civil Aviation Organization (ICAO) and such other organizations as may be decided by the Council.

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

DONE IN ABUJA, THIS 17th DAY OF FEBRUARY 2012

**IN SINGLE ORIGINAL, IN THE ENGLISH, FRENCH AND
PORTUGUESE LANGUAGES, ALL THREE TEXTS BEING EQUALLY
AUTHENTIC**





[Handwritten signature]

H. E. Thomas Boni YAYI
President of the Republic of Benin

[Handwritten signature]

H. E. Blaise COMPAORE
President of Burkina Faso

H.E. Jose Maria Pereira NEVES
Prime Minister and Head of the Government,
of the Republic of Cape Verde

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

[Handwritten signature]

H. E. Abdou KOLLEY
Minister of Fisheries, Water Resources
and National Assembly Matters
for and on behalf of the President
of the Republic of The Gambia

[Handwritten signature]

H.E. Alhaji Muhammad MUMUNI
Minister of Foreign Affairs and Regional Integration
for and on behalf of the President
of the Republic of Ghana

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

[Handwritten signature]

H.E. Raimundo PEREIRA
Interim President of the Republic of Guinea Bissau

[Handwritten signature]

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

[Handwritten signature]

H. E. Badara Aliou MACALOU
Minister of African Integration and Migrations Abroad, for
and on behalf of the President of the Republic of Mali

[Handwritten signature]

H.E. Issoufou MAHAMADOU
President of the Republic of Niger

[Handwritten signature]

H. E. Goodluck Ebele JONATHAN, GCFR
President of the Federal Republic of Nigeria,
Chairman of the Authority of Heads of State
and Government of ECOWAS

[Handwritten signature]

H.E. Mamadou NDIAYE
Ambassador, Director of Cabinet to the Minister
of Foreign Affairs, for and on behalf of the President
of the Republic of Senegal

[Handwritten signature]

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

[Handwritten signature]

H. E. Elliott OHIN
Minister of Foreign Affairs and Cooperation,
for and on behalf of the President of the Togolese Republic