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COMMISSION OF THE EUROPEAN COMMUNITIES

Brussels, 10.7.2008  
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**ANNEX 1**

**INTERIM AGREEMENT WITH A VIEW TO AN ECONOMIC PARTNERSHIP  
AGREEMENT**

**BETWEEN THE EUROPEAN COMMUNITY AND ITS MEMBER STATES, OF THE  
ONE PART, AND THE CENTRAL AFRICA PARTY, OF THE OTHER PART**

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"CENTRAL AFRICA" WHICH, FOR THE PURPOSE OF THIS AGREEMENT,  
COMPRISES:

THE REPUBLIC OF CAMEROON,

of the one part,

THE KINGDOM OF BELGIUM,  
THE CZECH REPUBLIC,  
THE KINGDOM OF DENMARK,  
THE FEDERAL REPUBLIC OF GERMANY,  
THE REPUBLIC OF ESTONIA,  
THE HELLENIC REPUBLIC,  
THE KINGDOM OF SPAIN,  
THE FRENCH REPUBLIC,  
IRELAND,  
THE ITALIAN REPUBLIC,  
THE REPUBLIC OF CYPRUS,  
THE REPUBLIC OF LATVIA,  
THE REPUBLIC OF LITHUANIA,  
THE GRAND DUCHY OF LUXEMBOURG,  
THE KINGDOM OF THE NETHERLANDS,  
THE REPUBLIC OF HUNGARY,  
THE REPUBLIC OF MALTA,  
THE REPUBLIC OF AUSTRIA,  
THE REPUBLIC OF POLAND,  
THE PORTUGUESE REPUBLIC,  
THE REPUBLIC OF SLOVENIA,  
THE SLOVAK REPUBLIC,  
THE REPUBLIC OF FINLAND,  
THE KINGDOM OF SWEDEN,  
THE UNITED KINGDOM OF GREAT BRITAIN AND NORTHERN IRELAND,  
ROMANIA,  
THE REPUBLIC OF BULGARIA,  
  
and  
  
THE EUROPEAN COMMUNITY,  
  
of the other part

## **1. PREAMBLE**

HAVING regard to the ACP-EC Partnership Agreement, signed in Cotonou on 23 June 2000 and revised in Luxembourg on 25 June 2005, hereinafter "the Cotonou Agreement";

CONVINCED that the Economic Partnership Agreement (EPA) will create a new and more favourable climate for their relations in the areas of economic governance, trade and investments and create new opportunities for growth and development;

WHEREAS the liberalisation of trade, of establishment and of trade in services between the Parties must be based on the regional integration of the Central African States, have the objective of fostering their smooth and gradual integration into the global economy, with due regard for their political choices and their development priorities, and fulfil the conditions laid down in the World Trade Organisation agreements;

WHEREAS the Parties shall not encourage foreign direct investment by making their domestic environmental, labour or occupational health and safety legislation and regulations less stringent or by relaxing their domestic labour legislation and regulations or regulations designed to protect and promote cultural diversity. The Parties therefore reaffirm their commitment to comply with these domestic laws or regulations or to propose to do so in order to encourage the establishment, acquisition, expansion or retention in their territory of an investment or of an investor.

HAVE DECIDED AS FOLLOWS:

## **2. TITLE I OBJECTIVES**

### *Article 1*

#### **Interim Agreement**

This Agreement establishes an initial framework for an Economic Partnership Agreement (EPA).

By "initial framework", the Parties mean an Interim Agreement comprising, on the one hand, actual and enforceable commitments according to the provisions of this Agreement and, on the other hand, negotiations on incorporating additional elements in order to arrive at a full EPA in accordance with the Cotonou Agreement.

### *Article 2*

#### **General objectives and scope**

The objectives of this Agreement are to:

- a) contribute to the reduction and eventual eradication of poverty by establishing a trade partnership consistent with the objective of sustainable development, the Millennium Development Goals and the Cotonou Agreement;
- b) promote a regional economy in Central Africa that is more competitive and diversified, and stronger growth;
- c) foster regional integration, economic cooperation and good governance in the Central African region;
- d) promote the gradual integration of the Central Africa Party into the global economy, in accordance with its political choices and its development priorities;
- e) improve the capacities of the Central Africa Party in terms of trade policy and trade-related issues;
- f) establish and implement an effective, predictable and transparent regulatory framework for trade and investment in the Central African region, thus supporting the conditions for increasing investment and private-sector initiatives, and enhance capacity for the supply of products and services, competitiveness and economic growth in the region;
- g) strengthen existing relations between the Parties on the basis of solidarity and mutual interest. To this end, in line with the WTO obligations, the Agreement will enhance commercial and economic relations, support a new trading dynamic between the Parties by means of the progressive, asymmetrical liberalisation of trade between them and reinforce, broaden and deepen cooperation in all areas relevant to trade;
- h) promote private-sector development and employment growth.

### *Article 3*

#### **Specific objectives**

In accordance with Articles 34 and 35 of the Cotonou Agreement, the objectives of this Agreement are to:

- a) establish a basis for the negotiation of an EPA which will help reduce poverty, promote regional integration, economic cooperation and good governance in Central Africa and increase Central Africa's production, export and supply capacities, as well as its ability to attract foreign investment and its capacities in terms of trade policy and trade-related issues;
- b) foster the smooth and gradual integration of Central Africa into the global economy, in accordance with its political choices and its development priorities;
- c) strengthen existing relations between the Parties on the basis of solidarity and mutual interest;
- d) create an Agreement that is compatible with the rules of the World Trade Organisation;
- e) establish a basis for negotiating and implementing an effective, predictable and transparent regulatory framework for trade, investment, competition, intellectual property, public procurement and sustainable development in the Central African region, thus supporting the conditions for increasing investment and private-sector initiatives, and enhance capacity for the supply of goods and services, competitiveness and economic growth in the region;
- f) provide a roadmap for negotiations on the areas referred to in the preceding paragraph for which it was not possible to complete negotiations in 2007.

### 3. TITLE II PARTNERSHIP FOR DEVELOPMENT

#### *Article 4*

#### **Framework for capacity building in Central Africa**

The Parties affirm their commitment to promote capacity building and economic modernisation in Central Africa using the various instruments at their disposal, for example by setting up an economic and institutional framework at national and regional levels that is conducive to growth in economic activity in Central Africa, by means of trade policy instruments and development cooperation instruments as set out in Article 7.

#### *Article 5*

#### **Priority areas for capacity building and modernisation**

1. The Central African region, in partnership with the EC Party and by means of the cooperation instruments set out in Article 7, shall promote a quantitative and qualitative increase in the goods and services produced and exported by the Central African region, particularly in the following areas:
  - a) Development of basic regional infrastructure
    - Transport
    - Energy
    - Telecommunications
  - b) Agriculture and food safety
    - Agricultural production
    - Agro-industry
    - Fisheries
    - Stock farming
    - Aquaculture and fish stocks
  - c) Industry, diversification and competitiveness of economies
    - Modernisation of businesses
    - Industry
    - Standards and certification (SPS, quality, zootechnical standards, etc.)
  - d) Strengthening of regional integration

- Development of the regional common market
  - Taxation and customs
- e) Improvement of the business environment
- Harmonisation of national trade policies
2. In implementing this partnership, the Parties shall refer to the joint guidance document in Annex I to this Agreement.
  3. In implementation of this Agreement, the Parties affirm their commitment to promote the modernisation of the productive sectors in Central Africa affected by this Agreement, by means of the cooperation instruments set out in Article 7.

### *Article 6*

#### **Business environment**

The Parties consider that the business environment is an essential vehicle for economic development, and that the provisions of this Agreement are therefore geared towards achieving this common objective. The signatory Central African States, which are also signatories of the OHADA Treaty (Organisation for the Harmonisation of Business Law in Africa), undertake to apply and implement the provisions of this Treaty effectively and without discrimination.

### *Article 7*

#### **Development finance cooperation**

1. The provisions of the Cotonou Agreement which relate to economic and regional integration and cooperation shall be implemented in order to maximise the benefits provided for in this Agreement.
2. European Community<sup>1</sup> financing pertaining to development cooperation between the Central Africa Party and the European Community supporting the implementation of this Agreement shall be within the framework of the relevant rules and procedures provided for by the Cotonou Agreement, in particular the programming procedures of the European Development Fund (EDF), and within the framework of the relevant instruments financed by the General Budget of the European Union. In this context, supporting the implementation of this Agreement shall be one of the priorities.
3. The Member States of the European Community collectively undertake to support, by means of their respective development policies and instruments — including aid for trade — development activities for regional economic cooperation and for the implementation of this Agreement, at both national and regional levels, in accordance with the principles of effectiveness and complementarity of aid.

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<sup>1</sup> Member States not included.

4. The Parties shall cooperate in order to facilitate the participation of other donors willing to support the efforts of the Central Africa Party to achieve the objectives of this Agreement.
5. The Parties recognise the usefulness of specific regional financing mechanisms which support the implementation of this Agreement, and will support the region's efforts in this direction.

#### *Article 8*

### **Supporting the implementation of trade-related rules**

The Parties agree that the implementation of trade-related rules, for which the areas of cooperation are detailed in the individual Chapters of this Agreement, shall help to achieve the objectives of this Agreement. Cooperation in this area shall be in accordance with the arrangements set out in Article 7.

#### *Article 9*

### **Financing of the partnership**

1. The Parties agree on the creation of an EPA regional fund, set up by and for the Central African region, to coordinate support which will help to finance effectively the priority measures intended to build productive capacity in the Central African States, as indicated in Article 5, and the measures referred to in Article 10. The detailed rules for the operation and management of the EPA regional fund shall be decided by the region by the end of 2008. The EC Party shall use this period to complete its assessment of these rules.
2. The EPA regional fund shall be financed by resources secured by the Parties, for example contributions from EDF funds, contributions from European Union Member States and, potentially, contributions from other donors.
3. Notwithstanding paragraphs 1 and 2, the European Community Party undertakes to channel its support either via the financing mechanisms specific to the region or via those chosen by the countries signatory to this Interim Agreement, with due regard for the rules and procedures provided for in the Cotonou Agreement, and in accordance with the principles of aid effectiveness.
4. The Parties shall cooperate in order to facilitate contributions from other donors to the EPA regional fund.

#### *Article 10*

### **Cooperation on fiscal adjustment**

1. The Parties recognise the challenges which the elimination or substantial reduction of the customs duties provided for in this Agreement may pose for signatory Central African States, and they agree to establish a dialogue and cooperation in this area.

2. In light of the dismantling schedule approved by the Parties to this Agreement, the latter agree to establish an in-depth dialogue on the fiscal adjustment measures to be taken which could restore budget balance in the long term.
3. Further to paragraphs 1 and 2 of this Article, the Parties agree to cooperate, within the framework of Article 7, and undertake to implement technical and financial assistance measures in the following areas:
  - a) contribution to absorbing the net fiscal impact in full complementarity with the fiscal reforms;
  - b) support for fiscal reform together with dialogue in this area.
4. The Parties undertake to agree, within the EPA Committee and as soon as possible, on the methodology for estimating net fiscal impact. In this same context the Parties shall subsequently agree on the complementary measures and studies to be undertaken.

#### *Article 11*

##### **Cooperation in international fora**

The Parties shall endeavour to cooperate in all international fora where issues of interest to this partnership are discussed.

#### *Article 12*

The Parties agree to review in greater detail in 2008 the partnership for development established by this Title, including the details of its implementation.

## **4. TITLE III TRADE REGIME FOR GOODS**

### **4.1 Chapter 1 Customs duties and non-tariff measures**

#### *Article 13*

##### **Rules of origin**

For the purposes of this Chapter, "originating" shall mean qualifying under the rules of origin in force on 1 January 2008 in the territories of the Parties.

A common reciprocal regime governing the rules of origin shall be annexed to this Agreement by the EPA Committee, and shall enter into force as of the date of provisional application of this Agreement.

Not later than three years after the date of this Agreement's entry into force, the Parties shall review the provisions in force governing the rules of origin, with a view to simplifying the concepts and methods used for the purpose of determining origin in the light of Central Africa's development goals. As part of this review, the Parties shall take into account technological development, production processes and all other factors including reforms under way in relation to rules of origin which could require amendments to the negotiated reciprocal regime. Any amendment or replacement shall be effected by decision of the EPA Committee.

#### *Article 14*

##### **Customs duties**

"Customs duties" shall mean duties or charges of any kind, including any form of surcharge or supplement, imposed on or in connection with the import or export of goods. These do not include:

- (a) charges equivalent to taxes or other internal charges imposed in accordance with Article 23, below, on national treatment;
- (b) antidumping, countervailing or safeguard measures applied in accordance with the provisions of the Chapter on trade defence instruments;
- (c) fees or other charges imposed in accordance with Article 18.

#### *Article 15*

##### **Elimination of customs duties on exports**

No new customs duties on exports shall be introduced in trade between the Parties, nor shall those already applied be increased, as of the date of this Agreement's entry into force.

However, in the event of a serious public finance problem or the need for greater environmental protection, the Central Africa Party may, after consultation with the EC Party, introduce customs duties on exports for a limited number of additional goods.

The EPA Committee shall undertake a regular evaluation in order to examine the impact and relevance of customs duties on exports applied under this Article.

#### *Article 16*

##### **Movement of products**

1. Products originating in the European Community or in the Central African region shall be assessed duties only once in the territory of the other Party.
2. For products originating in the European Community, the customs duty to be paid in accordance with this Agreement shall be levied on behalf of the signatory Central African State whose territory constitutes the place of consumption.
3. The Central Africa Party shall take all necessary measures to ensure the effective implementation of the provisions of this Article and to promote the free movement of goods in the signatory Central African States. The two Parties agree to cooperate in relation to this matter as per Articles 7 and 8 of Title II of this Agreement. This cooperation shall be adapted according to the type of mechanism ultimately chosen by the Central African region.
4. The Parties agree to cooperate with a view to facilitating the movement of goods and simplifying customs procedures as provided for under Chapter 3 of Title III (Customs and trade facilitation).

#### *Article 17*

##### **Classification of products**

The classification of products covered by this Agreement shall be that set out in each Party's respective tariff nomenclature in conformity with the Harmonised Commodity Description and Coding System ("HS").

#### *Article 18*

##### **Fees and other charges**

Fees and other charges referred to in Article 14(c) shall be limited in amount to the approximate cost of services rendered and shall not constitute indirect protection for domestic products or taxation of imports or exports for fiscal purposes. They shall be subject to specific tariffs corresponding to the approximate cost of services rendered and shall not be calculated on an *ad valorem* basis. The fees and other charges shall not be imposed for consular formalities, such as consular certificates and invoices (exhaustive list to be drawn up by the EPA Committee).

In order to promote regional integration and ensure clarity for economic operators, the Central Africa Party agrees to introduce, not later than 1 January 2013, standardised provisions relating to the area covered by this Article.

## *Article 19*

### **More favourable treatment on the basis of economic integration agreements**

1. With regard to the areas covered by this Chapter, the EC Party shall grant the Central Africa Party any more favourable treatment which could result from the EC Party becoming party to an economic integration agreement with third parties after this Agreement has been signed.
2. With regard to the areas covered by this Chapter, the EC Party shall grant the Central Africa Party any more favourable treatment which could result from the EC Party becoming party to an economic integration agreement with a major trading partner after this Agreement has been signed.
3. If the Central Africa Party has received substantially more favourable treatment from a major trading partner than that provided by the EC Party in an economic integration agreement concluded by the Central Africa Party with that same partner, the Parties shall enter into consultations and decide together on the implementation of the provisions of paragraph 2.
4. For the purposes of this Article, "economic integration agreement" shall mean an agreement which substantially liberalises trade and abolishes or eliminates discrimination between the Parties by eliminating existing discriminatory measures and/or prohibiting new or more discriminatory measures, either upon entry into force of this Agreement or on the basis of a reasonable time-frame.
5. For the purposes of this Article, "major trading partner" shall signify any developed country or any country accounting for more than 1% of world trade in the year before the entry into force of the economic integration agreement referred to in paragraph 2, or any group of countries acting individually, collectively or through an economic integration agreement accounting collectively for more than 1.5% of world trade in the year before the entry into force of the economic integration agreement referred to in paragraph 2<sup>2</sup>.
6. The provisions of this Chapter shall not be so construed as to oblige the Parties to extend reciprocally any preferential treatment applicable as a result of one of the Parties being party to a regional economic integration agreement with a third party on the date of signature of this Agreement.

## *Article 20*

### **Customs duties on products originating in the signatory Central African States**

1. Products originating from the Central Africa Party shall be imported into the EC Party free of customs duties, with the exception of the products indicated, and under the conditions set out in Annex II.

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<sup>2</sup> For this calculation, official WTO data on the world's leading exporters of products (excluding intra-EU trade) shall be used.

2. No new customs duties shall be introduced in trade between the Parties, nor shall those already applied be increased.

### *Article 21*

#### **Customs duties on products originating in the European Community**

1. For each product, the basic customs duty shall be that specified in Annex III.
2. No new customs duties shall be introduced in trade between the Parties, nor shall those specified in Annex III be increased.
3. Notwithstanding paragraph 2, in the context of introducing a common external tariff as of 1 January 2013 at the latest, and insofar as the general incidence of these duties is no higher than that of the duties specified in Annex III, Central Africa may revise the basic customs duties specified in Annex III which are applicable to products originating in the European Community. In that case, the EPA Committee shall modify Annex III accordingly.
4. Customs duties on imports of products defined as originating in the European Community and listed in Annex III under categories "1", "2" and "3" shall be definitively eliminated as per the table below. The tariff reduction percentages set out in the table below shall be applied either to the tariffs laid down in paragraph 1 above or to any new tariffs laid down under the conditions of paragraph 3 above.

Category	1/01/2008	1/01/2009	1/01/2010	1/01/2011	1/01/2012	1/01/2013	1/01/2014
1	0%	0%	25%	50%	75%	100%	
2	0%	0%	0%	15%	30%	45%	60%
3	0%	0%	0%	0%	0%	0%	10%

Category	1/01/2015	1/01/2016	1/01/2017	1/01/2018	1/01/2019	1/01/2020	1/01/2021
1							
2	75%	90%	100%				
3	20%	30%	40%	50%	60%	70%	80%

Category	1/01/2022	1/01/2023
1		
2		
3	90%	100%

5. Imports of products originating in the European Community and listed in Annex III under category "5" shall comprise products for which customs duties are determined

in accordance with the provisions of paragraphs 1 and 3 above; customs duties in this category shall be neither reduced nor eliminated.

6. In the event of serious difficulties in respect of imports of a given product, the schedule for tariff reduction and dismantling may be reviewed by the EPA Committee by common accord with a view to possibly extending the period of reduction or elimination. During a review of this kind, the calendar period for which the review has been requested may not be extended, for the product concerned, beyond the maximum transitional period for the reduction or elimination of tariffs provided for this same product. If the EPA Committee has not made a decision within 30 days of an application to review the timetable, the Central Africa Party may suspend the timetable provisionally for a period which may not exceed one year.

## *Article 22*

### **Prohibition of quantitative restrictions**

Upon entry into force of this Agreement, all prohibitions or restrictions on imports or exports affecting trade between the two Parties shall be eliminated, apart from the customs duties, taxes, fees and other charges referred to under Article 18 of this Chapter, whether made effective through quotas, import or export licenses or other measures. No new measures may be introduced. The provisions of this Article shall apply without prejudice to the provisions of the Chapter of this Agreement on trade defence instruments.

## *Article 23*

### **National treatment on internal regulations and taxation**

1. Imported products originating in the territory of the other Party shall not be subject, either directly or indirectly, to internal taxes or other internal charges of any kind in excess of those applied, directly or indirectly, to like national products. Moreover, the Parties shall not otherwise apply internal taxes or other internal charges so as to afford protection to national production.
2. Imported products originating in the territory of the other Party shall be accorded treatment no less favourable than that accorded to like national products in respect of all laws, regulations and requirements affecting their internal sale, offering for sale, purchase, transportation, distribution or use. The provisions of this paragraph shall not prevent the application of differential internal transportation charges which are based exclusively on the economic operation of the means of transport and not on the origin of the product.
3. Neither Party shall establish or maintain any internal regulation relating to the mixture, processing or use of products in specified amounts or proportions which requires, directly or indirectly, that any specified amount or proportion of any product which is the subject of the regulation must be supplied from national sources. Moreover, neither Party shall otherwise apply internal quantitative regulations so as to afford protection to national production.

No internal quantitative regulation relating to the mixture, processing or use of products in specified amounts or proportions shall be applied in such a manner as to allocate any such amount or proportion among external sources of supply.

4. In accordance with Article III.8(b) of the GATT 1994 , the provisions of this Article shall not prevent the payment of subsidies exclusively to national producers, including payments derived from the proceeds of internal taxes or charges applied consistently with the provisions of this Article and subsidies effected through governmental purchases of national products.
5. The provisions of this Article shall not apply to laws, regulations, procedures or practices governing public procurement.
6. The provisions of this Article shall apply without prejudice to the provisions of the Chapter of this Agreement on trade defence instruments.

#### *Article 24*

##### **Agricultural export subsidies**

1. No Party or signatory Central African State may introduce new export subsidies or increase any existing subsidy of this nature on agricultural products destined for the territory of the other Party. With regard to existing subsidies, this paragraph shall not prohibit increases due to variations in the world prices of the products in question.
2. For any group of products, as defined in paragraph 3, which receive an export refund under EC legislation for the same basic product for which the Central Africa Party has undertaken to eliminate its tariffs, the EC Party undertakes to dismantle all existing subsidies for exports of this group of products – corresponding to the same basic product – to the territory of the Central Africa Party. In the context of this paragraph, the Parties shall hold consultations by 31 December 2008 in order to establish the details of this dismantling process.
3. This Article shall apply to products covered by Annex I of the WTO Agreement on Agriculture.
4. This Article shall be without prejudice to the application by the Central Africa Party of Article 9.4 of the WTO Agreement on Agriculture and Article 27 of WTO Agreement on Subsidies and Countervailing Measures.

#### *Article 25*

##### **Food security**

Should the implementation of this Agreement lead to problems with the availability of, or access to, the foodstuffs necessary to ensure food security, and where this situation gives rise or is likely to give rise to major difficulties for the Central Africa Party or a signatory Central African State, the Central Africa Party or this signatory Central African State may take appropriate measures in accordance with the procedures laid down in Article 31 of Chapter 2 of this Title.

**Special provisions on administrative cooperation**

1. The Parties agree that administrative cooperation is essential for the implementation and control of the preferential treatment granted under this Title and underline their commitment to tackle irregularities and fraud in customs and related matters.
2. Where one party obtains proof, based on objective information, of a failure to provide administrative cooperation and/or of irregularities or fraud, the Party concerned may temporarily suspend the preferential treatment of the product(s) concerned in accordance with this Article.
3. For the purposes of this Article, a failure to provide administrative cooperation shall be defined, *inter alia*, as:
  - a) a recurrent failure to respect the obligation to verify the originating status of the product(s) concerned;
  - b) a repeated refusal or undue delay in carrying out and/or communicating the results of subsequent verification of the proof of origin;
  - c) a repeated refusal or undue delay in granting authorisation to conduct a cooperation mission to verify the authenticity of documents or accuracy of information relevant to the granting of the preferential treatment in question.
4. The application of a temporary suspension shall be subject to the following conditions:
  - a) The Party which obtains proof, based on objective information, of a failure to provide administrative cooperation and/or of irregularities or fraud shall without undue delay notify the EPA Committee of this proof together with the objective information and enter into consultations within the EPA Committee with a view to reaching a solution acceptable to both Parties, on the basis of all relevant information and objective findings.
  - b) Where the Parties have entered into consultations in the EPA Committee as provided for above and have not been able to agree on an acceptable solution within three months of notification, the Party concerned may temporarily suspend the preferential treatment of the product(s) concerned. A temporary suspension shall be notified to the EPA Committee without undue delay.
  - c) Temporary suspensions under this Article shall be limited to that necessary to protect the financial interests of the Party concerned. They shall not exceed a period of six months, which may be renewed. The EPA Committee shall be notified of temporary suspensions immediately after their adoption. Such suspensions shall be the subject of periodic consultations within the EPA Committee, particularly with a view to their termination as soon as the conditions for their application no longer exist.
5. At the same time as the notification of the EPA Committee provided for in paragraph 4 a) of this Article, the Party concerned shall publish a notice to importers in its

Official Journal or Gazette. This notice to importers shall indicate that, for the product concerned, proof has been obtained, based on objective information, of a failure to provide administrative cooperation and/or of irregularities or fraud.

#### *Article 27*

### **Management of administrative errors**

In case of error by the competent authorities in the management of preferential systems for exports, and in particular in the application of rules defining the concept of "originating" products and methods of administrative cooperation, where this error leads to consequences in terms of imports and exports the Party facing such consequences may request the EPA Committee to examine the possibility of adopting all appropriate measures with a view to resolving the situation.

#### *Article 28*

### **Cooperation**

In accordance with the provisions of Article 7 of Title II of this Agreement on development finance cooperation, the Parties agree to cooperate in the following areas *inter alia*:

- supporting the implementation of trade policy commitments arising from this Agreement;
- training/support in the interpretation and application of these rules.

## **4.2 Chapter 2 Trade defence instruments**

#### *Article 29*

### **Anti-dumping and countervailing measures**

1. Subject to the provisions of this Article, nothing in this Agreement shall be construed to prevent the EC Party or the signatory Central African States, individually or collectively, from adopting anti-dumping or countervailing measures in accordance with the relevant WTO Agreements. For the purposes of this Article, origin shall be determined in accordance with the Parties' non-preferential rules of origin.
2. Before imposing definitive anti-dumping or countervailing duties in respect of products from signatory Central African States, the EC Party shall consider the possibility of constructive remedies as provided for in the relevant WTO Agreements.
3. Where an anti-dumping or countervailing measure has been imposed for two or more signatory Central African States by a regional or sub-regional authority, there shall be one single instance of judicial review, including the stage of appeals.
4. Where anti-dumping or countervailing measures may be imposed on a regional or sub-regional basis and on a national basis, the Parties guarantee that these measures

shall not be applied simultaneously to the same product by the regional or sub-regional authorities and the national authorities.

5. The EC Party shall notify the signatory Central African States of the receipt of a properly documented complaint before initiating any investigation.
6. The provisions of this Article shall be applicable in all investigations initiated after this Agreement enters into force.
7. The provisions of this Article shall not be subject to the dispute settlement provisions of this Agreement.

#### *Article 30*

##### **Multilateral safeguard measures**

1. Subject to the provisions of this Article, nothing in this Agreement shall be construed to prevent the signatory Central African States or the EC Party from adopting measures in accordance with Article XIX of the 1994 General Agreement on Tariffs and Trade (GATT), the WTO Agreement on Safeguards and Article 5 of the WTO Agreement on Agriculture. For the purposes of this Article, origin shall be determined in accordance with the Parties' non-preferential rules of origin.
2. Without prejudice to the provisions of paragraph 1, in the light of the overall development objectives of this Agreement and the small size of the economies of the signatory Central African States, the EC Party shall exclude imports from signatory Central African States from any measures taken pursuant to Article XIX of GATT 1994, the WTO Agreement on Safeguards and Article 5 of the WTO Agreement on Agriculture.
3. The provisions of paragraph 2 shall apply for a period of five years, beginning on the date on which this Agreement enters into force. Not later than 120 days before the end of this period, the EPA Committee shall review the implementation of these provisions in light of the development needs of the signatory Central African States, with a view to determining whether to extend their application for a further period.
4. The provisions of paragraph 1 shall not be subject to the dispute settlement provisions of this Agreement.

#### *Article 31*

##### **Bilateral safeguard measures**

1. Without prejudice to the provisions of Article 30 of this Chapter, after having examined alternative solutions, a Party may apply safeguard measures of limited duration which derogate from the provisions of Articles 20 and 21 of Chapter 1 concerning the elimination of customs duties, under the conditions and in accordance with the procedures laid down in this Article.

2. Safeguard measures as referred to in paragraph 1 may be taken where a product originating in the territory of one Party is being imported into the territory of the other Party in such increased quantities and under such conditions as to cause or threaten to cause:
- (a) serious damage to the domestic industry producing like or directly competitive products in the territory of the importing Party, or
  - (b) disruption in a sector of the economy, particularly where this disruption gives rise to major social problems or difficulties which could seriously jeopardise the economic situation of the importing Party, or
  - (c) disruption in the markets of like or directly competitive agricultural products<sup>3</sup> or in the mechanisms regulating those markets.
3. The safeguard measures referred to in this Article shall not exceed what is necessary to remedy or prevent the serious damage or disruption, as defined in paragraphs 2 and 5(b). Those safeguard measures of the importing Party may only consist of one or more of the following:
- (a) the suspension of any further reduction of the applicable import duty provided for under this Agreement for the product concerned,
  - (b) an increase in the customs duty on the product concerned to a level which does not exceed the customs duty applied to other WTO Members, and
  - (c) the introduction of tariff quotas on the product concerned.
4. Without prejudice to the provisions of paragraphs 1, 2 and 3 above, where a product originating in one or more signatory Central African States is being imported in such increased quantities and under such conditions as to cause or threaten to cause one of the situations referred to under paragraphs 2(a), (b) and (c) above to one or more of the EC Party's outermost regions, the EC Party may take surveillance or safeguard measures limited to the region or regions concerned in accordance with the procedures laid down in paragraphs 6 to 9.
5. (a) Without prejudice to the provisions of paragraphs 1, 2 and 3 above, where a product originating in the EC Party is being imported in such increased quantities and under such conditions as to cause or threaten to cause one of the situations referred to under paragraphs 2(a), (b) and (c) above to a signatory Central African State, this signatory Central African State may take surveillance or safeguard measures limited to its territory in accordance with the procedures laid down in paragraphs 6 to 9.
- (b) A signatory Central African State may take safeguard measures where a product originating in the EC Party, following the reduction of customs duties, is being imported into its territory in such increased quantities and under such conditions as to cause or threaten to cause disruption to an infant industry producing

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<sup>3</sup> For the purposes of this Article, agricultural products shall be those covered by Annex I of the WTO Agreement on Agriculture.

like or directly competitive products. This clause shall be applicable for a period of fifteen years from the date on which this Agreement enters into force. Measures must be taken in accordance with the provisions of paragraphs 6 to 9.

6. (a) The safeguard measures referred to in this Article shall be maintained only for such time as is necessary to prevent or remedy the serious damage or disruption as defined in paragraphs 2, 4 and 5 above.

(b) The safeguard measures referred to in this Article shall be applied for a period not exceeding two years. Where the circumstances warranting the imposition of safeguard measures continue to exist, such measures may be extended for a further period of no more than two years. Where the signatory Central African States or a signatory Central African State applies a safeguard measure, or where the EC Party takes safeguard measures limited to the territory of one or more of its outermost regions, such measures may nevertheless be applied for a period not exceeding four years and, where the circumstances warranting the imposition of safeguard measures continue to exist, be extended for a further maximum period of four years.

(c) The safeguard measures referred to in this Article which exceed one year shall have a clear timetable for being phased out by the end of the set period, at the latest.

(d) No safeguard measure referred to in this Article shall be applied to a product that has previously been subject to such a measure for a period of at least one year since the expiry of the measure.

7. For the implementation of the above paragraphs, the following provisions shall apply:

(a) Where a Party is of the opinion that one of the circumstances referred to in paragraphs 2, 4 and/or 5 exists, it shall immediately refer the matter to the EPA Committee.

(b) The EPA Committee may make recommendations to remedy the circumstances which have arisen. If the EPA Committee has not made recommendations to remedy the circumstances, or if a satisfactory solution has not been reached within 30 days of the matter being referred, the importing Party may adopt the appropriate measures to remedy the situation in accordance with this Article.

(c) Before taking any measure provided for in this Article or, in the cases to which paragraph 8 applies, the Party concerned shall, as soon as possible, supply the EPA Committee with all information required for a thorough examination of the situation, with a view to seeking a solution acceptable to the Parties concerned.

(d) In selecting safeguard measures, priority must be given to those which solve the problem rapidly and effectively and disturb the functioning of this Agreement as little as possible.

(e) All safeguard measures taken in accordance with this Article shall be notified immediately to the EPA Committee and shall be the subject of periodic consultations within that body, particularly with a view to establishing a timetable for their termination as soon as circumstances permit.

8. Where exceptional circumstances require immediate measures, the importing Party concerned, whether the EC Party, the signatory Central African States or a signatory Central African State, may take the measures provided for in paragraphs 3, 4 and/or 5 on a provisional basis without complying with the requirements of paragraph 7. Such action may be taken for a maximum period of 180 days where measures are taken by the EC Party and 200 days where measures are taken by the signatory Central African States or a signatory Central African State, or where measures taken by the EC Party are limited to the territory of one or more of its outermost regions. The duration of any such provisional measure shall be counted as part of the period of duration of the measures and of any extension as referred to in paragraph 6. When taking such provisional measures, the interests of all stakeholders shall be taken into account. The importing Party concerned shall inform the other Party and shall refer the matter to the EPA Committee for examination.
9. If an importing Party subjects imports of a product to an administrative procedure having as its purpose the rapid provision of information on the trend of trade flows liable to give rise to the problems referred to in this Article, it shall inform the EPA Committee without delay.
10. The WTO Agreement shall not be invoked to prevent a Party from adopting safeguard measures in accordance with the provisions of this Article.

#### **4.3 Chapter 3 Customs and trade facilitation**

##### *Article 32*

##### **Objectives**

1. The Parties acknowledge the importance of customs and of trade facilitation in the evolving global trading environment. The Parties agree to increase cooperation in this area with a view to ensuring that the relevant legislation and procedures, as well as the administrative capacity of the relevant administrations, fulfil the objectives of effective controls and facilitation of trade, and help promote the development and regional integration of the EPA signatory countries.
2. The Parties agree that legitimate public policy objectives, including those relating to security and the prevention of fraud, shall not be compromised in any way.

##### *Article 33*

##### **Customs and administrative cooperation**

1. In order to ensure compliance with the provisions of this Agreement and effectively respond to the objectives laid down in Article 32, the Parties shall:
  - (a) exchange information concerning customs legislation, regulations and procedures;
  - (b) develop joint initiatives relating to import, export and transit procedures, and initiatives designed to provide an effective service for the business community;

- (c) cooperate on the automation of customs and trade procedures, and adopt, for the purpose of information exchange, the Customs Data Model of the **World Customs Organisation** (WCO);
  - (d) cooperate in the planning and implementation of assistance with a view to facilitating customs reforms and implementing trade facilitation; and
  - (e) encourage consultations and cooperation between all bodies concerned with international trade.
2. Notwithstanding paragraph 1, the Parties' customs administrations shall provide mutual administrative assistance in accordance with the provisions of Protocol 1. As of 2008, the EPA Committee shall make any amendments which it considers necessary to Protocol 1 by consensus.

#### *Article 34*

#### **Terms of cooperation**

1. The Parties recognise the importance of cooperation as regards customs and trade facilitation measures for the implementation of this Agreement.
2. In accordance with the provisions of Article 7 of Title II of this Agreement on development finance cooperation, the Parties agree to cooperate in the following areas, *inter alia*:
  - a) the application of modern customs techniques, including risk analysis and risk management, binding information, simplified procedures for imports and exports of products, subsequent verifications and company audit methods;
  - b) the introduction of procedures which reflect where possible the international instruments and standards applicable in the field of customs and trade, including WTO rules on customs valuation and WCO instruments and standards, *inter alia* the revised Kyoto Convention on the simplification and harmonisation of customs procedures and the WCO Framework of Standards to Secure and Facilitate Global Trade; and
  - c) the computerisation of customs and trade procedures.

#### *Article 35*

#### **Customs and trade standards**

1. The Parties agree that their legislation, regulations and procedures, in the fields of customs and international trade, shall be based on:
  - (a) international standards and instruments, including the revised Kyoto Convention on the simplification and harmonisation of customs procedures, the WCO Framework of Standards to Secure and Facilitate Global Trade, the WCO Customs Data Model and the Convention on the Harmonised Commodity Description and Coding System (HS Convention);

- (b) the introduction of a single administrative document, or an electronic equivalent, for the purpose of establishing customs declarations at the import and export stages;
  - (c) modern customs techniques, including risk analysis and risk management, simplified procedures for imports and exports of products, subsequent verifications and company audit methods. Procedures should be transparent, efficient and simplified, in order to reduce costs and increase predictability for economic operators, including small and medium-sized enterprises;
  - (d) non-discrimination in terms of requirements and procedures concerning imports, exports and products in transit, although it shall be accepted that consignments may be treated differently in accordance with objective risk management criteria;
  - (e) regulations and procedures containing binding information, particularly on tariff classification, and origin;
  - (f) simplified procedures for authorised traders;
  - (g) the gradual development of information systems to facilitate the electronic exchange of data between traders, customs administrations and other bodies involved;
  - (h) the facilitation of transit movements;
  - (i) rules ensuring that penalties imposed for minor breaches of customs regulations or the requirements of international trade procedures are proportionate and non-discriminatory and that their application does not result in unwarranted delays;
  - (j) regular evaluation of the system of mandatory use of customs brokers in order to improve performance and efficiency, and if necessary move towards the elimination of this system;
2. The system of mandatory pre-shipment inspections of products shall be the subject of negotiations within the negotiations on a full partnership agreement.
3. In order to improve working methods, as well as to ensure non-discrimination, transparency, efficiency, integrity and accountability of operations, the Parties shall:
- (a) take the necessary measures, based on the relevant international recommendations, to simplify and standardise the data and documentation required by customs and the other institutions involved with international trade;
  - (b) simplify administrative formalities and requirements wherever possible in order to reduce the time needed for clearance, release and removal of products;
  - (c) implement effective, prompt and non-discriminatory procedures enabling the right of appeal against rulings, decisions and actions by customs and other administrations which affect imports, exports or goods in transit. Procedures

for appeal shall be easily accessible and any costs shall be reasonable and not in excess of the costs necessary to process them;

- (d) ensure that the highest standards of integrity are maintained by applying measures in line with the principles of the relevant international instruments and conventions.

### *Article 36*

#### **Transit of products**

1. The Parties shall ensure freedom of transit through their territory via the route most convenient for transit. Any restrictions, controls or requirements must be non-discriminatory, proportionate and applied uniformly.
2. Without prejudice to legitimate customs control, the Parties shall accord to products in transit from the territory of one Party treatment not less favourable than that accorded to domestic products, in particular exports and imports and their movement.
3. The Parties shall operate bonded transport regimes that allow the transit of products without payment of duties or other charges, subject to the provision of an appropriate guarantee.
4. The Parties shall promote and implement regional transit arrangements.
5. The Parties shall use international standards and instruments relevant to transit.
6. The Parties shall ensure cooperation and coordination across all relevant agencies in their territories to facilitate traffic in transit and promote cross-border cooperation.

### *Article 37*

#### **Relations with the business community**

The Parties agree:

- (a) to ensure that all information on legislation, regulations, procedures and required documents, duties and taxes, fees and other charges may be made publicly available, where possible electronically;
- (b) on the need for regular consultations with the business community on the drafting of texts related to customs and international trade issues. To this end, appropriate mechanisms for regular consultation shall be put in place by the Parties;
- (c) that a sufficient period of time must elapse between the publication and entry into force of any legislation, procedure, duty or charge, whether new or amended.

The Parties shall make publicly available relevant notices of an administrative nature, including agency requirements, procedures, opening hours and operating procedures for customs offices at entry and/or exit points, and contact or information points;

- (d) to foster cooperation between operators and relevant administrations via the use of non-arbitrary and accessible procedures, such as memoranda of understanding based on those promulgated by the WCO;
- (e) to ensure that administrations' requirements in terms of international trade continue to meet the needs of the business community, follow best practices, and remain as unrestrictive to trade as possible.

#### *Article 38*

### **Customs valuation**

1. Article VII of the GATT (1994) and the WTO Agreement on the implementation of Article VII of the GATT (1994) shall govern customs valuation rules applied to reciprocal trade between the Parties.
2. The Parties shall cooperate with a view to achieving a common approach to issues relating to customs valuation, including problems relating to transfer pricing.

#### *Article 39*

### **Regional integration in Central Africa**

In taking forward customs reforms, and in order to facilitate trade, the Parties shall promote regional integration, including in terms of developing standardised:

- requirements,
- documentation,
- data requirements,
- procedures,
- authorised trader schemes,
- border procedures and opening hours,
- transit requirements, bonded transport and guarantee schemes.

This should involve close cooperation between all relevant agencies and be based, wherever possible, on the use of relevant international standards.

## **4.4 Chapter 4 Technical barriers to trade, and sanitary and phytosanitary measures**

#### *Article 40*

### **Objectives**

The objectives of this Chapter are to facilitate trade in products between the Parties while increasing the capacity of the Parties to identify, prevent and eliminate obstacles to trade as a

result of technical regulations, standards and conformity assessment procedures applied by either Party, and increasing the capacity of the Parties to protect plants, animals and public health.

#### *Article 41*

### **Multilateral obligations and general background**

1. The Parties reaffirm their rights and obligations under the WTO Agreement, and in particular the WTO Agreements on the Application of Sanitary and Phytosanitary Measures (SPS Agreement) and on Technical Barriers to Trade (TBT Agreement). The Parties which are not members of the WTO also confirm their commitment to comply with the obligations set out in the SPS and TBT Agreements with regard to all matters concerning relations between the Parties.
2. The Parties reaffirm their commitment to improve public health in the territories of the signatory Central African States, in particular by strengthening their capacity to identify unsafe products, pursuant to Article 47 of this Chapter.
3. These commitments, rights and obligations shall inform the activities of the Parties under this Chapter.

#### *Article 42*

### **Scope and definitions**

1. This Chapter shall apply to those measures within the scope of the WTO TBT and SPS Agreements.
2. Unless specified otherwise, for the purposes of this Chapter, the definitions of the SPS and TBT Agreements, CODEX Alimentarius, the International Plant Protection Convention and the World Organisation for Animal Health shall apply, also for all references to "products" in this Chapter.

#### *Article 43*

### **Competent authorities**

With regard to SPS measures, the authorities in the EC Party and the signatory Central African States which are responsible for the implementation of the measures referred to in this Chapter are described in Appendix II.

The Parties shall inform each other in a timely manner of any significant changes to the competent authorities listed in Appendix II. The EPA Committee shall adopt any necessary amendment of Appendix II.

#### *Article 44*

### **Zoning**

When defining import conditions, the Parties may, on a case-by-case basis, propose and identify zones with a defined animal or plant health status, taking account of international standards.

#### *Article 45*

##### **Transparency of trade conditions and information exchange**

1. The Parties shall inform each other of any changes to their legal and administrative import requirements for products (including products of animals and/or vegetable origin).
2. The Parties reconfirm their obligations under the WTO SPS and TBT Agreements to inform each other of changes to the relevant standards or technical regulations through the mechanisms established under those Agreements.
3. The Parties shall also directly exchange information on other topics agreed by both Parties to be of potential importance for their trade relations, as and when necessary.
4. The Parties agree to collaborate in epidemiological surveillance on animal disease. Also in the domain of plant health, the Parties shall exchange information on the occurrence of pests of known and immediate danger to the other Party.

#### *Article 46*

##### **Regional integration**

1. The Central Africa Party undertakes to harmonise the standards and other measures within the scope of this Chapter at regional level within four years of this Agreement's entry into force.
2. With a view to facilitating trade between the Parties and in conformity with Article 40, the signatory Central African States agree on the need to harmonise import conditions applicable to products originating in the territory of the EC Party when these products enter a signatory Central African State. Where national import conditions already exist at the time of this Agreement's entry into force, and pending the introduction of harmonised import conditions, the existing import conditions shall be implemented by the signatory Central African States on the basis that a product from the EC Party legally placed on the market of a signatory Central African State may also be legally placed on the market of all other signatory Central African States without any further restriction or administrative requirement.

#### *Article 47*

##### **Capacity-building and technical assistance**

In accordance with the provisions of Article 7 of Title II of this Agreement on development finance cooperation, the Parties agree to cooperate in the following areas *inter alia*:

- i. For products referred to in Appendix IA, the Parties agree to cooperate with a view to strengthening both regional integration within the signatory Central African States and control capacity in accordance with the objectives of this Agreement, and in such a manner as to facilitate trade between the signatory Central African States.
- ii. For the products referred to in Appendix IB, the Parties agree to cooperate with a view to improving the competitiveness and quality of their products.

### *Appendix I A*

#### **Priority products for regional harmonisation by the signatory Central African States**

Live animals, in particular small ruminants, and fresh meat and meat products

Fish, fishery products, aquaculture products, fresh or processed

Tubers, root crops (including peanuts, manioc, taro, potatoes)

### *Appendix I B*

#### **Priority products for export from the Central Africa Party to the EC Party**

Coffee, cocoa

Spices (vanilla, pepper)

Fruit and nuts

Vegetables

Fish, fishery products and aquaculture products, fresh or processed

Timber

## Appendix II COMPETENT AUTHORITIES

### **A. Competent authorities of the EC Party**

Monitoring is shared between the national services of the Member States and the European Commission. In this respect the following applies:

As regards exports to signatory Central African States, the Member States of the European Community shall be responsible for the monitoring of production conditions and requirements, including statutory inspections and the issuing of health (or animal welfare) certificates confirming compliance with the agreed standards and requirements.

As regards imports from signatory Central African States, the Member States of the European Community shall be responsible for monitoring the imports' compliance with the EC Party's import conditions.

The European Commission shall be responsible for overall coordination, inspections/audits of inspection systems and the necessary legislative action to ensure the uniform application of standards and requirements within the Single European Market.

### **B. Competent authorities of the signatory Central African States**

This authority shall be vested in the signatory Central African States for imports and exports to and from their respective territories.

## 4.5 Chapter 5 Forestry governance and trade in timber and forest products

### *Article 48*

#### **Definitions**

Unless specified otherwise, for the purposes of this Chapter the description "forest products" shall also include non-timber forest products and their derivatives.

### *Article 49*

#### **Scope**

The provisions of this Chapter shall apply to trade in timber and forest products originating in Central Africa and to the sustainable management of the forests from which these products are extracted.

### *Article 50*

#### **Trade in timber, non-timber forest products and derivatives**

1. The Parties shall work together to facilitate trade between the EC Party and Central Africa in timber and forest products which come from objectively verifiable legal sources and help to achieve sustainable development. The Parties agree to:
  - a) implement measures to increase market confidence regarding the origin of forest products, particularly their legal and/or sustainable origin. These measures may include systems to improve the traceability of timber and forest products sold both within Central Africa and between Central Africa and the EC Party;
  - b) put in place an audit and surveillance system that is independent of the control chain.
2. The Parties shall explore possible ways of improving commercial opportunities for timber and forest products with a legal or sustainable origin in Central Africa on the market of the EC Party. These measures may include, *inter alia*, stronger public procurement policies, measures to raise consumer awareness, measures to promote the processing of forest products in Central Africa, and activities and initiatives in association with private-sector operators.
3. The Parties undertake to develop non-discriminatory policies and/or legislation within the scope of this Chapter; they also undertake to ensure the effective and non-discriminatory implementation of these policies and/or legislation, in accordance with WTO provisions.

### *Article 51*

#### **Regional integration**

1. The Central Africa Party undertakes to build and implement a regional framework to govern trade in timber and forest products originating in Central Africa, including the appropriate cooperation mechanisms and legislation to ensure that it is applied and implemented effectively.
2. The Central Africa Party shall develop protocols and/or guidelines for cooperation between the competent authorities in Central Africa which are responsible for implementation, to ensure that intra-regional trade in timber and forest products from Central Africa come from objectively verifiable legal sources.

#### *Article 52*

#### **Capacity-building and technical assistance**

In accordance with the provisions of Article 7 of Title II of this Agreement on development finance cooperation, the Parties agree to cooperate in the following areas *inter alia*:

- a) facilitating assistance with a view to strengthening regional integration, for example the implementation of the Treaty on the Conservation and Sustainable Management of Forests in Central Africa (COMIFAC) and the Sub-regional Convergence Plan, and with a view to building capacity in order to fulfil the commitments set out in this Chapter.
- b) supporting public and private commercial initiatives, particularly in terms of exports to the market of the EC Party, for local processing of timber and forest products originating in Central Africa which come from objectively verifiable legal sources and help to achieve sustainable development.

#### *Article 53*

#### **Other agreements**

Without prejudice to the provisions of this Chapter, trade in timber and forest products shall be governed in line with the Convention on International Trade in Endangered Species of Wild Fauna and Flora (CITES) and any voluntary partnership agreements to which signatory Central African States might adhere individually or collectively with the European Community under the European Union's action plan on forest law enforcement, governance and trade (FLEGT).

## **5. TITLE IV ESTABLISHMENT, TRADE IN SERVICES AND E-COMMERCE**

### *Article 54*

#### **Framework**

1. The Parties reaffirm their respective commitments under the General Agreement on Trade in Services.
2. The Parties undertake to extend the scope of this Agreement, not later than 1 January 2009, by negotiating the necessary provisions for the gradual, asymmetrical and reciprocal liberalisation of establishment and trade in services.

### *Article 55*

#### **Cooperation**

The Parties, recognising that strengthening trade capacity can support the development of economic activities, particularly in the services sectors, and strengthen their regulatory framework, reaffirm their respective obligations arising from the Cotonou Agreement, in particular Articles 34 to 39, 41 to 43, 45 and 74 to 78.

## **6. TITLE V TRADE-RELATED RULES**

### **6.1 Chapter 1 Current payments and capital movements**

#### *Article 56*

##### **Continuation of negotiations on current payments and movement of capital**

1. The Parties recognise the need to guarantee that cross-border flows of the funds necessary for the liberalisation of trade in products and services, and for investments by one of the Parties in the region of the other Party, cannot be restricted or prevented by one of the Parties. To do so would be contrary to the objectives of liberalisation, given that trade or investment, although itself permissible, could not give rise to payment or financing from abroad.
2. To achieve this objective, the Parties undertake to conclude negotiations by 1 January 2009 on a series of issues related to the following:
  - (a) liberalisation of flows of funds relating to trade in products and services, known as "current payments";
  - (b) liberalisation of flows of funds relating to "investments", known as "movements of capital relating to investments", including repatriation of investments and profits;
  - (c) a safeguard clause, granting a short-term derogation from freedom of capital movement, on grounds of serious difficulties as regards monetary situation or balance of payments;
  - (d) a development clause, providing for the liberalisation of other types of capital movements not related to investment.

### **6.2 Chapter 2 Competition**

#### *Article 57*

##### **Continuation of negotiations on competition**

1. The Parties recognise the importance of free and undistorted competition in their trade relations and the fact that certain anti-competitive practices may restrict trade between the Parties and thus hinder the achievement of the objectives of this Agreement.
2. The Parties therefore agree to take part in the negotiations on a chapter on competition in the EPA, which will include the following in particular:
  - (a) anti-competitive practices which are considered incompatible with the proper functioning of this Agreement, insofar as they can affect trade between the Parties;

- (b) provisions on the effective implementation of competition rules and policies and of regional policies in Central Africa which govern the anti-competitive practices identified in accordance with paragraph 2(a);
  - (c) provisions on technical assistance by independent experts to ensure that the Chapter's objectives are achieved and that Central Africa's competition policies are properly implemented at regional level.
3. The negotiations shall be based on a two-step approach, first applying the rules in the context of regional integration in Central Africa and, after a transition period to be determined jointly, applying the rules bilaterally.
  4. The negotiations on the competition chapter shall be concluded by 1 January 2009.

### **6.3 Chapter 3 Intellectual property**

#### *Article 58*

#### **Continuation of negotiations on intellectual property**

1. The Parties reaffirm their rights and obligations arising from the Agreement on Trade-Related Aspects of Intellectual Property Rights (TRIPs), and recognise the need to ensure an adequate and effective level of protection of intellectual, industrial and commercial property rights, and other rights covered by the TRIPS Agreement, in line with international standards and with a view to reducing distortions and impediments to bilateral trade.
2. With due regard for the powers transferred to the African Intellectual Property Organisation (OAPI), the Parties undertake to conclude negotiations by 1 January 2009 on a series of commitments regarding intellectual property rights.
3. The Parties also agree to strengthen their cooperation in the area of intellectual property rights. Such cooperation shall be directed at supporting the implementation of each Party's commitments and shall extend to the following areas *inter alia*:
  - (a) reinforcement of regional integration initiatives in Central Africa with a view to improving regional regulatory capacity, regional laws and regulations;
  - (b) prevention of the abuse of such rights by right-holders and the infringement of such rights by competitors;
  - (c) support in the preparation of national laws and regulations in Central Africa for the protection and enforcement of intellectual property rights.
4. The negotiations shall be based on a two-step approach, first applying the rules in the context of regional integration in Central Africa and, after a transition period to be determined jointly, applying the rules bilaterally.
5. In conducting the negotiations, the different levels of development in the signatory Central African States should be taken into account.

## **6.4 Chapter 4 Public procurement**

### *Article 59*

#### **Continuation of negotiations on public procurement**

1. The Parties recognise the contribution of transparent and competitive tendering to economic development. They therefore agree to negotiate the gradual and mutual opening of their public procurement markets, while recognising their different levels of development, under the conditions set out in paragraph 3 of this Article.
2. To achieve this objective, the Parties shall conclude negotiations by 1 January 2009 on a set of potential commitments on procurement, which shall include in particular the following:
  - (a) transparent and non-discriminatory rules, procedures and principles to be applied;
  - (b) lists of the products covered and the thresholds applied;
  - (c) effective challenge procedures;
  - (d) measures to support capacities to implement these commitments, including making use of opportunities created by information technologies.
3. The negotiations shall be based on a two-step approach, first applying the rules in the context of regional integration in Central Africa and, after a transition period to be determined jointly, applying the rules bilaterally.
4. In conducting the negotiations, the EC Party shall take into account the development, financial and trade needs of the signatory Central African States, which may take the form of the following measures in the interest of special and differential treatment:
  - (a) appropriate implementation periods, where required, to bring government procurement measures into line with any specific procedural requirements;
  - (b) adoption or retention of transitional measures such as a price preference programme or offset, in accordance with a phasing-out schedule.

## **6.5 Chapter 5 Sustainable development**

### *Article 60*

#### **Continuation of negotiations on sustainable development**

1. The Parties recognise that sustainable development is an overall objective of the EPA. They therefore agree to ensure that sustainability considerations are reflected in all titles of the EPA and to draft specific chapters covering environmental and social issues.

2. To achieve this objective, the Parties shall conclude negotiations by 1 January 2009 on a set of potential commitments on sustainable development, which shall include in particular the following:
  - (a) level of protection and right to regulate;
  - (b) regional integration in Central Africa, use of international environmental standards and of the International Labour Organisation and promotion of decent work;
  - (c) upholding levels of protection;
  - (d) consultation and monitoring procedures.
3. In conducting the negotiations, the EC Party shall take into account the development needs of the signatory Central African States, which may take the form of provisions on cooperation in this field.

## **6.6 Chapter 6 Protection of personal data**

### *Article 61*

#### **Overall objective**

The Parties, recognising:

- (a) their common interest in protecting the fundamental rights and freedoms of natural persons, and in particular their right to privacy, with respect to the processing of personal data,
- (b) the importance of maintaining effective data protection regimes as a means of protecting the interests of consumers, stimulating investor confidence and facilitating cross-border flows of personal data,
- (c) the need to collect and process personal data in a transparent and fair manner, with due respect accorded to the data subject,

agree to establish appropriate legal and regulatory regimes, and the appropriate administrative capacity to implement them, including independent supervisory authorities, in order to ensure an adequate level of protection of individuals with regard to the processing of personal data, in line with the highest international standards<sup>4</sup>.

### *Article 62*

#### **Definitions**

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Standards to be taken into account include the following international instruments:

- (i) Guidelines on computerised personal data files, as amended by the United Nations General Assembly on 20 November 1990.
- (ii) Recommendation of the OECD Council of 23 September 1980 concerning guidelines governing the protection of privacy and trans-border flows of personal data.

For the purposes of this Chapter:

- (a) "personal data" shall mean any information relating to an identified or identifiable natural person (data subject);
- (b) "processing of personal data" shall mean any operation or set of operations which is performed upon personal data, such as collection, recording, organisation, storage, alteration, retrieval, consultation, use, disclosure, combination, blocking, erasure or destruction, as well as transfers of personal data across national borders;
- (c) "data controller" shall mean the natural or legal person, authority or any other body which determines the purposes and means of the processing of personal data.

### *Article 63*

#### **Principles and general rules**

The Parties agree that the legal and regulatory regimes and administrative capacity to be established shall, at a minimum, include the following content principles and enforcement mechanisms:

- a) Content principles
  - (i) The purpose limitation principle – data should be processed for a specific purpose and subsequently used or further communicated only insofar as this is not incompatible with the purpose of the transfer. The only exemptions to these rights should be those provided for in legislation and necessary in a democratic society for the protection of important public interests.
  - (ii) The data quality and proportionality principle – data should be accurate and, where necessary, kept up to date. The data should be adequate, relevant and not excessive in relation to the purposes for which they are transferred or further processed.
  - (iii) The transparency principle – individuals should be provided with information as to the purpose of the processing and the identity of the data controller in the third country, and other information insofar as this is necessary to ensure fairness. The only exemptions to these rights should be those provided for in legislation and necessary in a democratic society for the protection of important public interests.
  - (iv) The security principle – the data controller should take technical and organisational security measures that are appropriate to the risks presented by the processing. Any person acting under the authority of the data controller, including a processor, must not process data except on instructions from the controller.
  - (v) The rights of access, rectification and opposition – the data subject should have the right to obtain a copy of all data relating to him/her that are processed, and the right to rectify those data where they are shown to be inaccurate. In certain situations he/she should also be able to object to the processing of the data relating to him/her. The only exemptions to these rights should be those

provided for in legislation and necessary in a democratic society for the protection of important public interests.

- (vi) Restrictions on onward transfers – as a matter of principle, further transfers of the personal data by the recipient of the original data transfer should be permitted only where the second recipient (i.e. the recipient of the onward transfer) is also subject to rules affording an adequate level of protection.
- (vii) Sensitive data – where special categories of data are involved, revealing racial or ethnic origin, political opinions, religious or philosophical beliefs or trade-union membership, data concerning health and sex, and data relating to offences, criminal convictions or security measures, additional safeguards should be in place.

b) Enforcement mechanisms

Appropriate mechanisms should be in place to ensure that the following objectives are achieved:

- (i) to ensure a good level of compliance with the rules, including a high degree of awareness among data controllers of their obligations, and among data subjects of their rights and the means of exercising them; the existence of effective and dissuasive sanctions; and systems of verification by authorities, auditors or independent data protection officials;
- (ii) to provide support and help to individual data subjects in the exercise of their rights, which they must be able to enforce rapidly and effectively, and without prohibitive cost, including through an appropriate institutional mechanism allowing independent investigation of complaints;
- (iii) to provide appropriate redress to the injured party where rules are not complied with, allowing compensation to be paid and sanctions imposed where appropriate.

*Article 64*

**Consistency with international commitments**

1. The Parties shall keep each other informed, via the EPA Committee, of the multilateral commitments and agreements with third countries in which they may participate, or of any obligation by which they may be bound and which could be relevant to the application of this Chapter, and in particular of any agreement providing for the processing of personal data, such as personal data being collected, stored or accessed by third parties or transferred to third parties.
2. The Parties may request consultations to discuss any matter which may arise.

*Article 65*

**Cooperation**

The Parties acknowledge the importance of cooperation in order to facilitate the development of appropriate legislative, judicial and institutional frameworks and to ensure an adequate level of protection of personal data that is consistent with the objectives and principles contained in this Chapter.

## **7. TITLE VI DISPUTE AVOIDANCE AND SETTLEMENT**

### **7.1 Chapter 1 Objective and scope**

#### *Article 66*

##### **Objective**

The objective of this Title of the Agreement is to avoid and settle any dispute between the Parties with a view to arriving, where possible, at a mutually agreed solution.

#### *Article 67*

##### **Scope**

1. This Title shall apply to any dispute relating to the interpretation or application of this Agreement, except where specifically provided otherwise.
2. Notwithstanding paragraph 1, the procedure provided for in Article 98 of the Cotonou Agreement shall be applicable in the case of disputes relating to development finance cooperation as defined in the Cotonou Agreement.

### **7.2 Chapter 2 Consultations and mediation**

#### *Article 68*

##### **Consultations**

1. The Parties shall endeavour to resolve disputes under this Agreement by entering into good faith consultations with the aim of reaching a mutually acceptable solution.
2. A Party seeking consultations shall do so by means of a written request to the other Party, copied to the EPA Committee, identifying the measure at issue and the provisions of the Agreement with which it considers the measure not to be in conformity.
3. The consultations shall be held within 40 days of the date on which the request is submitted. The consultations shall be deemed concluded within 60 days of the date of submission of the request unless both Parties agree to continue. All information disclosed during the consultations shall remain confidential.
4. Consultations on matters of urgency, including those regarding perishable or seasonal goods, shall be held within 15 days of the date of submission of the request, and shall be deemed concluded within 30 days of the date of submission of the request.
5. If consultations are not held within the time limits laid down in paragraph 3 or paragraph 4 respectively, or if consultations have been concluded and no agreement

has been reached on a mutually agreed solution, the complaining Party may request that an arbitration panel be established in accordance with Article 70.

#### *Article 69*

#### **Mediation**

1. If consultations fail to produce a mutually agreed solution, the Parties may, by agreement, seek recourse to a mediator. Unless the Parties agree otherwise, the terms of reference for the mediation shall be the matter referred to in the request for consultations.
2. Unless the Parties agree on a mediator within 15 days of submission of the mediation request, the EPA Committee shall select by lot a mediator from the pool of individuals who are on the list referred to in Article 85 and are not nationals of either Party. The selection shall be made within 20 days of submission of the mediation request and in the presence of a representative of each Party. The mediator shall convene a meeting with the Parties no later than 30 days after being selected. The mediator shall receive the submissions of each Party no later than 15 days before the meeting and communicate an opinion no later than 45 days after having been selected.
3. The mediator's opinion may include recommendations on how to resolve the dispute in accordance with the provisions of this Agreement. The mediator's opinion is non-binding.
4. The Parties may agree to amend the time limits referred to in paragraph 2. The mediator may also decide to amend these time limits at the request of any of the Parties or on his own initiative, based on the particular difficulties experienced by the Party concerned or the complexity of the case.
5. The mediation proceedings, and in particular all information disclosed and positions taken by the Parties during these proceedings, shall remain confidential.

### **7.3 Chapter 3 Procedures for the settlement of disputes**

#### *Section I – Arbitration procedure*

#### *Article 70*

#### **Initiation of the arbitration procedure**

1. Where the Parties have failed to resolve the dispute by recourse to consultations as provided for in Article 68, or by recourse to mediation as provided for in Article 69, the complaining Party may request that an arbitration panel be established.
2. A request for the establishment of an arbitration panel shall be addressed in writing to the Party which is the subject of the complaint and to the EPA Committee. The complaining Party shall identify in its request the specific measures at issue, and it

shall explain how such measures constitute a breach of the provisions referred to in Article 67.

#### *Article 71*

##### **Establishment of an arbitration panel**

1. An arbitration panel shall be composed of three arbitrators.
2. Within 10 days of the date on which the request for the establishment of an arbitration panel is submitted, the Parties shall consult each other in order to reach an agreement on the composition of the arbitration panel.
3. In the event that the Parties are unable to agree on the panel's composition within the time limit laid down in paragraph 2, either Party may request that the chairperson of the EPA Committee, or his or her delegate, select all three members by lot from the list drawn up under Article 85: one from among the individuals proposed by the complaining Party, one from among the individuals proposed by the Party complained against and one from among the individuals selected by both Parties to act as chairperson. Where the Parties agree on one or more of the members of the arbitration panel, any remaining members shall be selected by the same procedure.
4. The chairperson of the EPA Committee, or his or her delegate, shall select the arbitrators within five days of the request referred to in paragraph 3 being submitted by either Party and in the presence of a representative of each Party.
5. The date of establishment of the arbitration panel shall be the date on which the three arbitrators are selected.

#### *Article 72*

##### **Interim report by the panel**

The arbitration panel shall submit to the Parties an interim report containing both the descriptive sections and the panel's findings and conclusions, as a general rule not later than 120 days from the date of establishment of the arbitration panel. Any Party may submit written comments to the arbitration panel on specific aspects of its interim report within 15 days of submission of the report.

#### *Article 73*

##### **Arbitration panel ruling**

1. The arbitration panel shall notify the Parties and the EPA Committee of its ruling within 150 days from the date on which the arbitration panel is established. Where it considers that this deadline cannot be met, the chairperson of the arbitration panel shall notify the Parties and the EPA Committee in writing, stating the reasons for the delay and the date on which the panel plans to conclude its work. Under no circumstances should the ruling be notified later than 180 days from the date of establishment of the arbitration panel.

2. In urgent cases, including those involving perishable or seasonal goods, the arbitration panel shall make every effort to issue its ruling within 75 days of the date of its establishment. Under no circumstance should it take longer than 90 days from the date of its establishment to issue the ruling. The arbitration panel may give a preliminary ruling within ten days of its establishment on whether it deems the case to be urgent.
3. Either Party may ask an arbitration panel to make recommendations on how the Party complained against could comply.

## ***Section II – Compliance***

### *Article 74*

#### **Compliance with the arbitration panel ruling**

Each Party or, as appropriate, the signatory Central African States, shall take any measure necessary to implement the arbitration panel ruling, and the Parties shall endeavour to agree on a deadline for compliance with the ruling.

### *Article 75*

#### **Reasonable period of time for compliance**

1. No later than 30 days after the Parties have been notified of the arbitration panel ruling, the Party complained against shall notify the complaining Party and the EPA Committee of the time it will require for compliance (reasonable period of time).
2. In the event of disagreement between the Parties on the reasonable period of time to comply with the arbitration panel ruling, the complaining Party shall, within 20 days of the notification made under paragraph 1 by the Party complained against, request in writing that the arbitration panel determine the length of the reasonable period of time. This request shall be communicated simultaneously to the other Party and to the EPA Committee. The arbitration panel shall notify the Parties and the EPA Committee of its ruling within 30 days of the date of submission of the request.
3. In determining the length of the reasonable period of time, the arbitration panel shall take into consideration the length of time that it should take the Party complained against or, as appropriate, the signatory Central African States, to adopt comparable legislative or administrative measures to those identified by the complaining Party or, as appropriate, the signatory Central African States, as being necessary to ensure compliance. The arbitration panel may also take into consideration demonstrable capacity constraints which may affect the adoption of the necessary measures by the Party complained against.
4. In the event of the original arbitration panel, or some of its members, being unable to reconvene, the procedures set out in Article 71 shall apply. The deadline for issuing a ruling shall be 45 days from the date of submission of the request referred to in paragraph 2.

5. The reasonable period may be extended by mutual agreement of the Parties.

#### *Article 76*

##### **Review of measures taken to comply with the arbitration panel ruling**

1. The Party complained against shall notify the other Party and the EPA Committee, before the end of the reasonable period of time, of any measure that it has taken to comply with the arbitration panel ruling.
2. In the event of disagreement between the Parties concerning the compatibility of any measure notified under paragraph 1 with the provisions of this Agreement, the complaining Party may request in writing that the arbitration panel rule on the matter. Such request shall identify the specific measure at issue and explain how such measure is incompatible with the provisions of this Agreement. The arbitration panel shall issue its ruling within 90 days of the date of submission of the request. In urgent cases, including those involving perishable or seasonal goods, the arbitration panel shall issue its ruling within 45 days of the date of submission of the request.
3. In the event of the original arbitration panel, or some of its members, being unable to reconvene, the procedures set out in Article 71 shall apply. The period for issuing the ruling shall be 105 days from the date of submission of the request referred to in paragraph 2.

#### *Article 77*

##### **Temporary provisions in case of non-compliance**

1. If the Party complained against fails to give notification of any measure taken to comply with the arbitration panel ruling before the expiry of the reasonable period of time, or if the arbitration panel rules that the measures notified under Article 76(1) are not compatible with that Party's obligations under the provisions of this Agreement, the Party complained against or, as appropriate, the signatory Central African State concerned shall, if so requested by the complaining Party, present an offer for temporary compensation. This compensation may include or consist of financial compensation. However, nothing in this Agreement shall oblige the Party complained against or, as appropriate, the signatory Central African State concerned, to offer such financial compensation.
2. If no agreement on compensation is reached within 30 days of the end of the reasonable period of time or of the arbitration panel's ruling under Article 76 that a measure taken to comply is not compatible with the provisions of this Agreement, the complaining Party shall be entitled, after notifying the other Party, to adopt appropriate measures. These measures may be adopted by the complaining Party or, as appropriate, the signatory Central African State concerned.
3. In adopting these measures, the complaining Party or, as appropriate, the signatory Central African State concerned, shall aim to select measures proportionate to the infringement which least affect the achievement of this Agreement's objectives and

take into consideration their impact on the economy of the Party complained against and on the various signatory Central African States.

4. The EC Party shall show restraint when asking for compensation or adopting appropriate measures in accordance with paragraph 1 or 2 of this Article.
5. The compensation or appropriate measures shall be temporary and shall be applied only until any measure found to violate the provisions of this Agreement has been withdrawn or amended so as to bring it into conformity with those provisions or until the Parties have agreed to settle the dispute.

#### *Article 78*

##### **Review of measures taken to comply following the adoption of appropriate measures**

1. The Party complained against shall notify the other Party and the EPA Committee of any measure it has taken to comply with the arbitration panel ruling and of its request for an end to the application of appropriate measures by the complaining Party or, as appropriate, the signatory Central African State concerned.
2. If the Parties do not reach an agreement, within 30 days of the date of submission of the notification, on the compatibility of the notified measures with the provisions of this Agreement, the complaining Party shall request in writing that the arbitration panel rule on the matter. The other Party and the EPA Committee shall be notified of the request. The Parties and the EPA Committee shall be notified of the arbitration panel ruling within 45 days of submission of the request. If the arbitration panel rules that any measure taken to comply is not in conformity with the relevant provisions of this Agreement, the arbitration panel shall determine whether the complaining Party or, as appropriate, the signatory Central African State concerned may continue to apply appropriate measures. If the arbitration panel rules that any measure taken to comply is in conformity with the provisions referred to in Article 67, the appropriate measures shall be terminated.
3. In the event of the original arbitration panel, or some of its members, being unable to reconvene, the procedures laid down in Article 71 shall apply. The period for issuing the ruling shall be 60 days from the date of submission of the request referred to in paragraph 2.

#### ***Section III – Common provisions***

#### *Article 79*

##### **Mutually agreed solution**

Under this Title the Parties may at any time reach a mutually agreed solution to a dispute. They shall notify the EPA Committee of any such solution. When a mutually agreed solution is adopted, the procedure must be terminated.

## Article 80

### **Rules of procedure and code of conduct**

1. Dispute settlement procedures under Chapter 3 of this Title shall be governed by the rules of procedure and code of conduct to be adopted by the EPA Committee.
2. Meetings of the arbitration panel shall be open to the public in accordance with the rules of procedure, which also provide for the protection of confidential business information.

## Article 81

### **Information and technical advice**

At the request of a Party, or upon its own initiative, the arbitration panel may obtain information from any source, including the Parties involved in the dispute, which it deems appropriate for the arbitration procedure. The arbitration panel also has the right to seek the opinion of experts as it deems appropriate. Any information obtained in this manner must be disclosed to each of the Parties and submitted for their comments. Interested parties are authorised to submit *amicus curiae* briefs to the arbitration panel in accordance with the rules of procedure.

## Article 82

### **Languages for communications**

The written and oral submissions of the Central Africa Party shall be made in French and English, and those of the European Communities in any of the official languages of the European Union.

## Article 83

### **Rules of interpretation**

Any arbitration panel shall interpret the provisions of this Agreement in accordance with customary rules of interpretation of public international law, including the Vienna Convention on the Law of Treaties. The rulings of the arbitration panel cannot add to or diminish the rights and obligations provided for in this Agreement.

## Article 84

### **Arbitration panel rulings**

1. The arbitration panel shall make every effort to reach its decisions by consensus. Where, nevertheless, a decision cannot be arrived at by consensus, the matter at issue shall be decided by majority vote. However, under no circumstances shall the dissenting opinions of arbitrators be published.

2. The ruling shall set out the findings of fact, the applicability of the relevant provisions of this Agreement and the basic rationale behind any findings and conclusions of the arbitration panel. The EPA Committee shall make the arbitration panel ruling publicly available unless it decides not to do so.

## **7.4 Chapter 4 General provisions**

### *Article 85*

#### **List of arbitrators**

1. The EPA Committee shall, no later than six months after this Agreement's entry into force, establish a list of 15 individuals who are willing and able to serve as arbitrators. Each of the Parties shall select five individuals to serve as arbitrators. The two Parties shall also agree on five individuals who are not nationals of either Party and who may be called upon to act as chairperson to the arbitration panel. The EPA Committee shall ensure that a full list is always maintained.
2. Arbitrators shall have specialised knowledge or experience of law and international trade. They shall be independent, serve in their individual capacities and not take instructions from any organisation or government or be affiliated with the government of any of the Parties, and shall comply with the code of conduct adopted by the EPA Committee.
3. The EPA Committee may draw up an additional list of 15 individuals with sectoral expertise in specific matters covered by the Agreement. Where recourse is made to the selection procedure under Article 71(2), the chairperson of the EPA Committee may use this type of sectoral list with the agreement of both Parties.

### *Article 86*

#### **Relationship to WTO obligations**

1. Arbitration bodies set up under this Agreement shall not adjudicate disputes concerning each Party's rights and obligations under the Agreement establishing the World Trade Organisation (WTO).
2. Recourse to the dispute settlement provisions of this Agreement shall be without prejudice to any action in the WTO framework, including dispute settlement action. However, where a Party or, as appropriate, the signatory Central African States has/have instituted a dispute settlement proceeding with regard to a particular measure, either under Article 70(1) of this Title or under the WTO Agreement, it/they may not institute a dispute settlement proceeding with regard to the same measure in the other forum until the first proceeding has ended. For the purposes of this paragraph, dispute settlement proceedings under the WTO Agreement shall be deemed to be initiated by the request of a Party or, as appropriate, of the signatory Central African States for the establishment of a panel under Article 6 of the Understanding on Rules and Procedures Governing the Settlement of Disputes of the WTO.

3. Nothing in this Agreement shall preclude a Party or, as appropriate, the signatory Central African States from implementing the suspension of obligations authorised by the Dispute Settlement Body of the WTO.

#### *Article 87*

##### **Time limits**

1. All time limits laid down in this Title, including the deadlines for the arbitration panels to issue their rulings, shall be counted in calendar days from the day following the act or fact to which they refer.
2. Any time limit provided for in this Title may be extended by mutual agreement of the Parties.

#### *Article 88*

##### **Amendment of Title VI**

The EPA Committee may decide to amend this Title and its Annexes.

## 8. TITLE VII GENERAL EXCEPTIONS

### *Article 89*

#### **General exception clause**

Subject to the requirement that such measures are not to be applied in a manner which would constitute a means of arbitrary or unjustifiable discrimination between the Parties where like conditions must prevail, or a disguised restriction on trade in goods, services or establishment, nothing in this Agreement shall be construed to prevent the adoption or enforcement by the Parties of measures which:

- (a) are necessary to protect public security or public morality or to maintain public order;
- (b) are necessary to protect the health or life of humans, animals or plants;
- (c) are necessary to secure compliance with laws or regulations which are not inconsistent with the provisions of this Agreement, including those relating to:
  - (i) prevention of deceptive and fraudulent practices or ways of dealing with the effects of a default on contracts;
  - (ii) protection of the privacy of individuals in relation to the processing and dissemination of personal data and the protection of confidentiality of individual records and accounts;
  - (iii) security;
  - (iv) the application of customs regulations and procedures; or
  - (v) protection of intellectual property rights;
- (d) relate to imports or exports of gold or silver;
- (e) are necessary to protect national treasures of artistic, historical or archaeological value;
- (f) relate to the conservation of exhaustible natural resources if such measures involve restrictions on domestic production or consumption of goods or the provision or consumption of domestic services, and on domestic investors;
- (g) relate to the products of prison labour; or
- (h) are inconsistent with the articles of this Agreement on national treatment, provided that the difference in treatment is intended to ensure the effective or equitable

imposition or collection of direct taxes in respect of the economic activities of investors or of service providers of the other Party<sup>5</sup>.

#### *Article 90*

### **Security exceptions**

1. Nothing in this Agreement shall be construed:
  - (a) to require the Parties to furnish any information the disclosure of which they consider contrary to their essential security interests;
  - (b) to prevent the Parties from taking any action which they consider necessary for the protection of their essential security interests:
    - (i) relating to fissionable and fusionable materials or the materials from which they are derived;
    - (ii) relating to economic activities carried out directly or indirectly for the purpose of supplying or provisioning a military establishment;
    - (iii) relating to the production of, or trade in, arms, munitions or war materials;
    - (iv) relating to government procurement indispensable for national security or for national defence purposes; or
    - (v) taken in time of war or other emergency in international relations; or
  - (c) to prevent the Parties from taking any action in pursuance of the obligations they accepted in order to maintain international peace and security.
2. The EPA Committee shall be informed to the fullest extent possible of measures taken under paragraphs 1(b) and 1(c) and of their termination.

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<sup>5</sup> Measures aimed at ensuring the effective or equitable imposition or collection of direct taxes shall include measures taken by one of the Parties under its tax system which:

- (i) apply to non-resident investors and service providers in recognition of the fact that the tax obligation of non-residents is determined with respect to taxable entities outsourcing from or located in the territory of one of the Parties; or
- (ii) apply to non-residents in order to ensure the imposition or collection of taxes in the territory of one of the Parties; or
- (iii) apply to non-residents or residents in order to prevent tax evasion or avoidance, including measures taken to comply; or
- (iv) apply to consumers of services supplied in or from the territory of the other Party in order to ensure the imposition or collection of taxes on such consumers derived from sources in the territory of one of the Parties; or
- (v) distinguish investors and service providers subject to taxes on global taxable entities from other investors and service providers, in recognition of the differences between their tax bases; or
- (vi) determine, allocate or apportion income, profit, gain, loss, deduction or credit of resident persons or branches, or between related persons or branches of the same person, in order to safeguard the Parties' tax bases.

**Taxation**

1. Nothing in this Agreement or in any agreement adopted in implementation of this Agreement shall be construed to prevent the Parties from distinguishing, in the application of the relevant provisions of their fiscal legislation, between taxpayers who are not in the same situation, in particular with regard to their place of residence or with regard to the place where their capital is invested.
2. Nothing in this Agreement or in any agreement adopted in implementation of this Agreement shall be construed to prevent the adoption or enforcement of any measure intended to prevent the avoidance or evasion of taxes pursuant to the tax provisions of agreements to avoid double taxation or other tax agreements or domestic fiscal legislation.
3. Nothing in this Agreement shall affect the rights and obligations of the Parties under any tax convention. In the event of any inconsistency between this Agreement and any such convention, that convention shall prevail to the extent of the inconsistency.

## **9. TITLE VIII GENERAL AND FINAL PROVISIONS**

### *Article 92*

#### **EPA Committee**

1. To implement this Agreement, an EPA Committee shall be set up within three months of the signature of this Agreement.
2. The Parties agree on the composition, organisation and functioning of the EPA Committee.
3. The EPA Committee shall be responsible for the administration of all areas covered by this Agreement and for the completion of all tasks referred to in this Agreement.
4. The EPA Committee shall reach its decisions by consensus.
5. In order to facilitate communication and ensure the effective implementation of this Agreement, each Party shall designate a focal point.

### *Article 93*

#### **Regional organisations**

The Commission of the Economic and Monetary Community of Central Africa (CEMAC) and the General Secretariat of the Economic Community of Central African States (CEEAC) shall be invited to attend all meetings of the EPA Committee.

### *Article 94*

#### **Continuation of negotiations and implementation of the Agreement**

1. The Parties shall continue the negotiations in accordance with the schedule set out in this Agreement, within the existing negotiation structures.
2. When the negotiations are concluded, the resulting draft amendments shall be submitted to the relevant domestic authorities for approval.
3. Pending the establishment of the EPA Committee and of other institutions and committees of relevance for the full EPA referred to in Title I, Article 1 of this Agreement, the Parties shall take the necessary measures for the administration and implementation of this Agreement and carry out the tasks of the EPA Committee each time reference is made to this Committee in this Agreement.

### *Article 95*

#### **Definition of the Parties and fulfilment of obligations**

1. The Contracting Parties to this Agreement shall be the Republic of Cameroon [hereinafter "Central Africa Party"], of the one part, and the European Community or its Member States or the European Community and its Member States, within their respective areas of competence as derived from the Treaty establishing the European Community [hereinafter "EC Party"], of the other part.
2. For the purposes of this Agreement, the Central Africa Party agrees to act collectively.
3. For the purposes of this Agreement, "Party" shall refer to the Central African States acting collectively or the EC Party, as appropriate. "Parties" shall refer to the Central African States acting collectively and the EC Party.
4. In cases where individual action is provided for or required to exercise rights or comply with obligations under this Agreement, reference is made to the "signatory Central African States".
5. The Parties or the signatory Central African States, as appropriate, shall adopt any general or specific measures required for them to fulfil their obligations under this Agreement and shall ensure that they comply with the objectives laid down in this Agreement.

#### *Article 96*

#### **Coordinators and exchange of information**

1. In order to facilitate communication and ensure the effective implementation of this Agreement, each Party shall designate a coordinator upon this Agreement's entry into force. The designation of coordinators shall be without prejudice to the specific designation of competent authorities under specific titles or chapters of this Agreement.
2. At the request of either Party, the coordinator of the other Party shall indicate the office or official responsible for any matter pertaining to the implementation of the Agreement and provide the support necessary to facilitate communication with the requesting Party.
3. At the request of either Party, and to the extent legally possible, each Party through its coordinator shall provide information and reply promptly to any question from the other Party relating to an actual or proposed measure or an international agreement that might affect trade between the Parties.
4. Each Party shall ensure that its laws, regulations, procedures and administrative rulings of general application relating to any trade matter covered by this Agreement are promptly published or made publicly available and brought to the attention of the other Party.
5. Without prejudice to specific transparency provisions in this Agreement, the information referred to under this Article shall be considered to have been provided when the information has been made available by appropriate notification to the

WTO or when the information has been made available on the official, public and fee-free website of the Party concerned.

#### *Article 97*

##### **Regional preference**

1. Nothing in this Agreement shall oblige a Party to extend to the other Party to this Agreement any more favourable treatment than that applied within each of the Parties as part of its respective regional integration process.
2. Any more favourable treatment or advantage that may be granted under this Agreement by any signatory Central African State to the European Community shall immediately and unconditionally also be enjoyed by each signatory Central African State.

#### *Article 98*

##### **Entry into force**

1. This Agreement shall be signed, ratified or approved in accordance with constitutional or domestic rules and applicable procedures.
2. This Agreement shall enter into force on the first day of the month following that in which the depositaries of the Agreement have been notified of the last instrument of ratification, acceptance or approval.
3. Notifications shall be sent to the Secretary-General of the Council of the European Union and the President of the Commission of the Economic and Monetary Community of Central Africa, who shall be the depositaries of this Agreement.
4. Pending this Agreement's entry into force, the EC Party and the Central Africa Party agree to apply the provisions of this Agreement in accordance with their respective powers ("provisional application"). This may be done either by provisional application, where such application is possible, or via ratification of the Agreement.
5. The depositaries of the Agreement shall be notified of such provisional application. The Agreement shall be applied provisionally 10 days after receipt of this notification of provisional application by the European Community and after receipt of this notification, either by ratification or by provisional application, by all signatory Central African States.
6. Notwithstanding paragraph 4, the EC Party and the signatory Central African States may unilaterally take measures to apply the Agreement, before provisional application, to the extent that this is possible.

#### *Article 99*

##### **Duration**

1. This Agreement is concluded for an unlimited period.
2. Either Party, or a signatory Central African State, may give written notice to the other Party of its intention to denounce this Agreement.
3. Denunciation shall take effect six months after the other Party has been notified.

#### *Article 100*

##### **Territorial application**

This Agreement shall apply to the territories in which the Treaty establishing the European Community is applied and under the conditions laid down in that Treaty, and to the territories of the signatory Central African States.

#### *Article 101*

##### **Accession of States or of regional organisations in Central Africa**

1. This Agreement shall remain open to accession by any State or regional organisation in Central Africa. A request for accession shall be submitted to the EPA Committee. Any State which submits a request for accession shall attend the meetings of the EPA Committee as an observer.
2. The request shall be examined and negotiations begun in order to propose the necessary amendments to this Agreement. The accession protocol shall be submitted to the competent authorities for approval.
3. The Parties shall examine the effects of the accession on this Agreement. The EPA Committee may rule on the transitional measures or the necessary amendments.

#### *Article 102*

##### **Accession of new Member States to the EU**

1. The EPA Committee shall be informed of any application by a third country to join the European Union. During the negotiations between the European Union and the candidate country, the EC Party shall provide the Central Africa Party with any relevant information, and the Central Africa Party shall inform the EC Party of its concerns so that they can be taken fully into account. The Central Africa Party shall be notified of any accession to the European Union (EU).
2. Any new EU Member State shall accede to this Agreement as of the date of its accession to the EU by means of a clause to this effect in the Act of Accession. If the act of accession to the Union does not provide for such automatic accession of the new EU Member State to this Agreement, the Member State concerned shall accede to this Agreement by depositing an act of accession with the General Secretariat of the Council of the European Union, which shall send certified copies to the Central Africa Party.

3. The Parties shall review the effects of the accession of new EU Member States on this Agreement. The EPA Committee may rule on any transitional measures or amendments necessary.

#### *Article 103*

### **Outermost regions of the European Community**

Nothing in this Agreement shall prevent the EC Party from applying existing measures to improve the structural, social and economic situation of the outermost regions in accordance with Article 299(2) of the Treaty establishing the European Community.

#### *Article 104*

### **Dialogue on financial matters**

The Parties and the signatory Central African States agree to promote dialogue and transparency and to share best practice on tax policy and administration.

#### *Article 105*

### **Collaboration in tackling illegal financial activities**

The Parties undertake to prevent and tackle fraudulent and corrupt illegal activities, money laundering and the financing of terrorism, and shall take the necessary legislative and administrative measures to comply with international standards, including those set out in the United Nations Convention against Corruption, the United Nations Convention on Transnational Organised Crime and its Protocols, the United Nations Convention for the Suppression of the Financing of Terrorism and the recommendations of the Financial Action Task Force. The Parties agree to exchange information and to cooperate in these areas.

#### *Article 106*

### **Relationship to other agreements**

1. With the exception of the Articles on development cooperation provided for in Part III, Title II, of the Cotonou Agreement, in the event of inconsistency between the provisions of this Agreement and the provisions of Part III, Title II, of the Cotonou Agreement, the provisions of this Agreement shall take precedence.
2. Nothing in this Agreement shall be construed so as to prevent the adoption by the European Community or by one of the signatory Central African States of any measures, including trade measures, deemed appropriate as provided for under Articles 11b, 96 and 97 of the Cotonou Agreement.
3. The Parties agree that nothing in this Agreement requires them to act in a manner inconsistent with their WTO obligations.

4. The Parties agree to examine, in 2008, whether the provisions of this Agreement are consistent with the customs unions to which the signatories to this Agreement belong.

#### *Article 107*

#### **Authentic texts**

This Agreement shall be drawn up in duplicate in the Bulgarian, Czech, Danish, Dutch, English, Estonian, Finnish, French, German, Greek, Hungarian, Italian, Latvian, Lithuanian, Maltese, Polish, Portuguese, Romanian, Slovak, Slovenian, Spanish and Swedish languages, each text being equally authentic.

#### *Article 108*

#### **Annexes**

The Annexes and Protocols to this Agreement shall form an integral part thereof.

## **10. ANNEXES AND PROTOCOLS**

Annex I: Joint guidance document

Annex II: Customs duties on products originating in the territory of the Central Africa Party

Annex III: Customs duties on products originating in the territory of the EC Party

Protocol 1: Mutual administrative assistance in customs matters