

Economic Community of West African States, African Regional Bodies

## Supplementary Act A/SP.11/02/12 Relating to Common Rules on Aviation Security in ECOWAS Member States

Act 2-SP11 of 2012

Legislation as at 17 February 2012

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Supplementary Act A/SP.11/02/12 Relating to Common Rules on Aviation Security in ECOWAS Member States (Act 2-SP11 of 2012)

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Economic Community of West African States

## **Supplementary Act A/SP.11/02/12 Relating to Common Rules on Aviation Security in ECOWAS Member States**

### **Act 2-SP11 of 2012**

*Published in official journal 60 on 17 February 2012*

**Commenced**

*[This is the version of this document at 17 February 2012.]*

#### **The High Contracting Parties,**

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

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

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

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

**RECALLING** the Convention on International Civil Aviation signed at Chicago, on the 7<sup>th</sup> December 1944 and its annexes;

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

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

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

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

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

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

**ON THE PROPOSAL** of the Meeting of transport Ministers held in Yamoussoukro on the 17<sup>th</sup> of September 2011;

**HAVING** received the opinion of the ECOWAS Parliament;

**ON THE RECOMMENDATION** on the Sixty-seventh session of the Council of Ministers held in Abuja, from 19 to 21 December 2011.

**HEREBY AGREE AS FOLLOWS**

## Article 1 – Definitions

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Airside:** The movement area of an airport, adjacent terrain and buildings or portions thereof, access to which is controlled.

**Annex 17:** Annex to the Chicago Convention dealing with Standards and Recommended Practices (SARPs) for the protection of international civil aviation against acts of unlawful interference

**Appropriate authority for safeguarding civil aviation:** Authority designated by a State, within its administration, to be in charge of the development, implementation and enforcement of the National Civil Aviation Security Program.

**Apron:** A defined area, on a land aerodrome, intended to accommodate aircraft for purposes of loading or unloading passengers, mail or cargo, fuelling, parking or maintenance.

**Apron passenger vehicle:** Any vehicle used to convey passengers between aircraft and passenger buildings.

**Baggage:** Property belonging to passengers or crew and transported on board an aircraft following an agreement with the operator.

**Background check:** A check of a person's identity and previous experience, including where legally permissible, any criminal history, as part of the assessment of an individual's suitability to implement a security control and/or for unescorted access to a security restricted area.

**Baggage container:** A receptacle in which baggage is loaded for conveyance in aircraft.

**Baggage sorting area:** Space in which departure baggage is sorted into flight loads.

**Baggage storage area:** Space in which checked/hold baggage is stored pending transport to aircraft and space in which mishandled baggage may be held until forwarded, claimed or otherwise disposed of.

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

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

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

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

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

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

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

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

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

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

**Check-in position:** The location of facilities at which check-in is carried out.

**Co-mail:** Abbreviation of aircraft operator company mail, shipped within the company's network of stations.

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

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

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

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

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

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

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

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

Contingency plan: A "proactive" plan to include measures and procedures addressing various threat levels, risk assessments and the associated security measures to be implemented, designed to anticipate and mitigate events as well as prepare all concerned parties having roles and responsibilities in the event of an actual act of unlawful interference. A contingency plan sets forth incremental security measures that may be elevated as the threat increases. It may be a stand-alone plan or included as part of the Crisis Management Plan.

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

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

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

(Note that corporate aviation is a subset of general aviation).

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

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

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

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

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

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

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

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

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



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

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

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

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

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

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

**Freight:** (see cargo)

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

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

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

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

**Identification cards:** See Permits.

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

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

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

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

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

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

Known consignor:

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

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

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

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

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

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

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

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

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

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

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

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

Permits (access card or badges): The Permit system consists of cards or other documents issued to airport employees or who for one reason or another need to be allowed access to the airport the airside area or a restricted security zone.

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

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

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

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

Regular Flights: Flights possessing all of the following characteristics:

- made, for consideration, by means of aircrafts designed to carry passengers, cargo and / or mail in such a manner that on each flight, seats are available to the general public, either directly by the air carrier or its authorized agents,

- Organized so as to serve traffic between two or more points:
  - According to a public timetable;
  - Either with a regularity or frequency that constitute a recognizable systematic series.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

**Stores (Supplies):**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **Article 2 – Purpose**

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

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

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

## **Article 3 – Scope**

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

## **Article 4 – Means of implementation**

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

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

## **Article 5 – Common standards**

1. The basic standards applicable to the civil aviation common security measures are based on standards and recommended practices of Annex 17 of the Chicago Convention and the norms contained in the Articles of this Supplementary Act and any other legal instrument of ECOWAS and ICAO applicable to the member States.

2. The necessary measures for the implementation and the technical adaptation of these common basic standards are adopted, by way of Regulation of the ECOWAS Council of Ministers by taking due account of the different types of operations and of the sensitive character of the related measures:
  - a) performance criteria and the possibilities of technical equipments;
  - b) detailed procedures containing sensitive information;
  - c) detailed criteria concerning exemption from security measures.
3. Based on an assessment of local threats, if security measures specified in the Regulation which form Appendix 1 of this Supplementary Act cannot be implemented for practical reasons and objectives, ECOWAS member states may adopt security measures to ensure adequate protection in their airports. They shall notify the ECOWAS Commission of such measures.
4. The Commission examines whether the measures adopted by the Member States in accordance with paragraph 3 above are justified for practical reasons and provide adequate protection. If the measures do not meet these criteria, the Commission may advise the state to adapt and take the necessary decision.

### **Article 6 – More stringent measures**

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

### **Article 7 – National Organization for Civil Aviation Security**

1. Each Member State shall establish and implement practices and procedures specified in this Supplementary Act, which will ensure appropriate aviation security necessary to operate the aircraft under normal conditions and can react quickly to cope with any increased threats against civil aviation security.
2. Within three (3) months after the entry into force of this Supplementary Act, each Member State will adopt a National Civil Aviation Security Program to ensure the application of common standards referred to in Article 5, paragraph 1 and the measures adopted pursuant to Article 5, paragraph 2.
3. Each Member State shall designate and specify to ECOWAS Commission an appropriate authority within its administration, to be responsible for the development, implementation and maintenance of the National Civil Aviation Security Program.
4. Each Member State shall ensure that the appropriate authority arranges for the financial and human resources necessary for achieving the goals outlined in its National Civil aviation Security Program.
5. Within three (3) months following the adoption of the National Civil Aviation Security Program, each member State shall establish a National Security Committee or a similar arrangement to coordinate security activities between ministries, departments and other state agencies, airport operators and airlines and other entities involved in or responsible for the implementation of various aspects of the National Civil Aviation Security Program.
6. National Security Committee will be formed at the discretion of the States and must include the Ministries and law enforcement agencies involved in Aviation Security for civil aviation, defense, border control, customs, equipment and foreign affairs and any other ministry.
7. Each Member State shall regularly reassess the level of threat against civil aviation operations within its territory and adjust to the relevant elements of its National Civil Aviation Security Program.

8. Each Member State shall require the competent authority to define and distribute tasks and to coordinate activities between ministries, departments and other state agencies, airport operators and airlines and other entities involved in or responsible for the implementation of various aspects of the National Civil Aviation Security Program.
9. Six (6) months after the entry into force of this Supplementary Act, each Member State's competent authority shall develop and implement a National Program for Quality Control to ensure the effectiveness of its National Civil Aviation Security Program.

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

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

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

### **Article 8 – Measures relating to airport organization**

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

### **Article 9 – Implementation of security measures**

1. Each Member State shall ensure at each airport, the presence of authorized and adequately trained personnel to implement the measures and security procedures.
2. Each Member State defines the number of authorized personnel, trained and assigned to an airport, in agreement with the authority referred to in Article 8 paragraph 1. These personnel shall be tasked with security duties only. A security official is appointed head of the security department of each structure.
3. Each Member State shall require the competent authority to establish a performance contract between the authority referred to in Article 8 paragraph 1, and the security services to ensure efficiency and quality in the implementation of security measures and checks.

### **Article 10 – Dissemination of information**

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

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

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

### **Article 11 – Coordination of administrative measures for civil aviation security programs**

1. The coordination of the administrative measures for the civil aviation security program and dissemination of reports is ensured by an established mechanism.
2. A coordinator will be recruited hired by the ECOWAS Commission after notice of vacancy, to oversee this process. He will be assisted in his task by the Advisory Committee on Civil Aviation Security under Article 12 below.

### **Article 12 – Advisory Committee on Civil Aviation Security**

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



5. The Advisory Committee shall adopt its rules of procedure.
6. The funding of the activities of the constituted Advisory Committee on Aviation Security shall be by the ECOWAS Commission.

### **Article 13 – Remuneration for service delivery**

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

### **Article 14 – Cooperation with third countries**

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

### **Article 15 – Conformity checks**

1. Six (6) months after the entry into force of this Supplementary Act in accordance with Article 19, the Commission, in cooperation with the competent authority referred to in Article 7 paragraph 3, shall carry out inspections to ensure the application of this Supplementary Act by the member States.
2. The inspections call for a common methodology on conformity check shall be defined in a regulation. These inspections shall be performed by qualified inspectors, according to common criteria, and take into account information provided by the National Program for Quality Control. The methodology of these inspections is adopted by Regulation of the Council of Ministers.
3. Experts mandated by the ECOWAS Commission in conducting inspections in accordance with paragraphs 1 and 2 of this article, before performing their task shall be issued a document by Commission, specifying the nature, purpose of inspection and duration. The Commission shall inform the member States concerned of the inspections within a reasonable time frame before the scheduled inspections. The

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

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

### **Article 16 – Relations with third countries**

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

### **Article 17 – Penalties for security breach**

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

### **Article 18 – Report and cooperation**

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

### **Article 19 – Implementation of the Supplementary Act**

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

### **Article 20 – Amendments**

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

### **Article 21 – Entry into force and publication**

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

## **Article 22 – Depositary authority**

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

IN FAITH OF WHEREOF, WE, the Heads of State and Government of the Economic Community of West African States (ECOWAS) have signed this Supplementary Act

Done in Abuja, this 17<sup>th</sup> day of February 2012

In single original, in the English, French and Portuguese languages, all three texts being equally authentic