

Economic Community of West African States, African Regional Bodies

## A/P4/5/82 Convention Relating to Inter-State Road Transit of Goods

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A/P4/5/82 Convention Relating to Inter-State Road Transit of Goods  
 Contents

Chapter I ..... 1

    Article 1 – Definitions ..... 1

        Paragraph a ..... 1

        Paragraph b. .... 1

        Paragraph c ..... 1

        Paragraph d. .... 1

        Paragraph e. .... 1

        Paragraph f. .... 1

        Paragraph g. .... 1

        Paragraph h. .... 2

        Paragraph i ..... 2

        Paragraph j. .... 2

        Paragraph k. .... 2

        Paragraph l. .... 2

        Paragraph m. .... 2

Chapter II – Establishment of Inter-State Road Transit Regime ..... 2

    Article 2 ..... 2

    Article 3 ..... 2

        Paragraph a. .... 2

        Paragraph b. .... 2

        Paragraph c. .... 2

    Article 4 ..... 2

        Paragraph a. .... 2

        Paragraph b. .... 2

Chapter III – Formalities ..... 2

    Article 5 ..... 2

        Paragraph 1. .... 2

        Paragraph 2. .... 2

        Paragraph 3 ..... 3

        Paragraph 4. .... 3

    Article 6 ..... 3

    Article 7 ..... 3

    Article 8 ..... 3

    Article 9 ..... 3

Paragraph 1. ....	3
Paragraph 2. ....	3
Article 10 .....	3
Paragraph 1. ....	3
Paragraph 2. ....	3
Paragraph 3. ....	3
Article 11 .....	4
Paragraph 1. ....	4
Paragraph 2. ....	4
Paragraph 3. ....	4
Article 12 .....	4
Article 13 .....	4
Article 14 .....	4
Article 15 .....	4
Paragraph 1. ....	4
Subparagraph a. ....	4
Subparagraph b. ....	4
Paragraph 2. ....	4
Subparagraph a. ....	4
Subparagraph b. ....	4
Subparagraph c. ....	4
Subparagraph d. ....	4
Paragraph 3. ....	4
Article 16 .....	5
Paragraph 1. ....	5
Paragraph 2. ....	5
Paragraph 3. ....	5
Paragraph 4. ....	5
Article 17 .....	5
Article 18 .....	5
Paragraph 1. ....	5
Paragraph 2. ....	5
Paragraph 3. ....	5
Paragraph 4. ....	5
Paragraph 5. ....	5

Paragraph 6 .....	5
Article 19 .....	5
Article 20 .....	5
Article 21 .....	6
Article 22 .....	6
Article 23 .....	6
Article 24 .....	6
Article 25 .....	6
Article 26 .....	6
Paragraph a. ....	6
Paragraph b. ....	6
Chapter IV – Security .....	7
Article 27 .....	7
Paragraph 1. ....	7
Paragraph 2. ....	7
Paragraph 3. ....	7
Paragraph 4. ....	7
Article 28 .....	7
Paragraph 1. ....	7
Paragraph 2 .....	7
Paragraph 3 .....	7
Paragraph 4 .....	7
Chapter V – Reporting of offences .....	7
Article 29 .....	7
Paragraph 1. ....	7
Paragraph 2. ....	7
Subparagraph a. ....	7
Subparagraph b. ....	7
Subparagraph c. ....	7
Subparagraph d. ....	8
Subparagraph e. ....	8
Subparagraph f. ....	8
Subparagraph g. ....	8
Article 30 .....	8
Paragraph 1. ....	8

Paragraph 2. ....	8
Article 31 .....	8
Chapter VI – Statistical provisions .....	8
Article 32 .....	8
Article 33 .....	8
Article 34 .....	8
Chapter VII – Final provisions .....	9
Article 35 .....	9
Article 36 .....	9
Article 37 .....	9
Paragraph 1. ....	9
Paragraph 2. ....	9
Article 38 .....	9
Article 39 .....	9
Article 40 .....	9
Paragraph 1. ....	9
Paragraph 2. ....	9
Paragraph 3. ....	10



Economic Community of West African States

## A/P4/5/82 Convention Relating to Inter-State Road Transit of Goods

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**Commenced in full**

*[This is the version of this document as it was at 29 May 1982 to 31 May 1982.]*

**The Governments of the Economic Community of West African States,**

**RECALLING** paragraphs 3 and 4 of Article 22 and Article 23 of the Treaty of the Economic Community of West African States relating to Customs and Trade matters and Article 11 of the Protocol relating to the Concept of Products originating from Member States;

**ACCEPTING** the principles of the convention of the United Nations Conference on Trade and Development on transit of goods within landlocked countries adopted on 8th July, 1965;

**CONSIDERING** that it is necessary to set up an Inter-State road transit system in order to facilitate the transportation of goods between the territories of the Member States;

**CONSCIOUS** of the fact that the Inter-State Road Transit System may facilitate the compilation of statistics of movement of goods;

**CONVINCED** that in order to ensure that these statistics are comprehensive and reliable it is necessary to ensure that the Member States collaborate at the administrative level and that the documents of the Inter-State road transit contain the necessary data;

**HAVE AGREED AS FOLLOWS:**

### Chapter I

#### Article 1 – Definitions

In this Convention,

- a. **"Treaty"** means the treaty of the Economic Community of West African States;
- b. **"Member State or Member States"** means a Member State or Member States of the Economic Community of West African States.
- c. **"Inter-State Road Transit (ISRT)"** means a regime that allows the transportation of goods by road from one Customs Office in a Member State to another Customs Office in another Member State through one or more Member States free of duties, taxes and restrictions while in transit. Such goods shall be accompanied with a set of customs documents and shall not be off-loaded or transferred while in transit;
- d. **"Principal Obligee"** means any natural or legal person, who by a customs declaration, applies to carry out an Inter-State Road Transit operation and is thus responsible to the competent authorities for the regular execution of this operation;
- e. **"Means of Transport"** means any road vehicle, trailer, semi-trailer or container used for the conveyance of goods.
- f. **"Office of Departure"** means the Customs Office where the Inter-State Road Transit operation begins.
- g. **"Transit Office"** means the Customs offices (other than those of departure and destination) through which vehicles pass during their Inter-State journey;

- h. **"Office of destination"** means the Customs Office where the goods are to be presented and where the Inter-State Road Transit operation terminates;
- i. **"Office of guarantee"** means the Office of departure when security bond arrangement concerning transit are concluded;
- j. **"Common border"** means the border common to two Member States;
- k. **"Inter-State Road Transit Declaration"** means the transit declaration made in appropriate booklet, a model of which is attached to this Convention as an appendix;
- l. **"Notice of passage"** means an unnumbered leaflet of the Inter-State Road Transit declaration deposited by the transporter in each passage Office;
- m. **"Merchandise"** means all trade goods subject to trade with the exception of those stipulated in Annex "A" to this Convention.

## **Chapter II**

### **Establishment of Inter-State Road Transit Regime**

#### **Article 2**

An Inter-State Road Transit Regime is hereby established among Member States of ECOWAS for the purpose of facilitating the movement of goods in their territory as defined in Article 1.

#### **Article 3**

The provisions of Article 2 of this Convention shall, however, not apply to the following:

- a. Goods appearing on the special list of goods which is attached as Annex "A" to this Convention, The list may be amended by the Council of Ministers upon the recommendations of the Transport Commission.
- b. Transportation of goods carried out under the international railway transit system.
- c. Postal articles (including parcels sent by post).

#### **Article 4**

In order to enjoy the provision of the present Convention, transporters authorised by their State shall:

- a. use road vehicle or container vehicles previously approved in conformity with the provisions indicated in Annex "B" to this Convention.
- b. have paid a deposit and obtained a receipt acceptable within the terms of the log-book and under the conditions stipulated in Annex "C" to this Convention.

## **Chapter III**

### **Formalities**

#### **Article 5**

- 1. In order to operate under this Inter-State Road Transit System, all goods shall be covered by the Inter-State Road Transit Declaration in accordance with the terms of the present Convention.
- 2. The Inter-State Road Transit Declaration shall either be type-written or hand-written, but in the latter case it shall be in ink, legible and in printed characters.



- 3 The Inter-State Transit Declaration shall be signed by the principal obligee or by his authorised representative as well as by the guarantor.
4. The log-book shall be numbered and shall bear the undertakings made by the principal obligee and his guarantor. They shall contain leaflets of undertakings and discharge which shall bear the number, type of package, description, quantity gross weight and value of the goods as well as countries of departure of transit and of destination.

### **Article 6**

The Inter-State Transit Declaration which is to be completed at the point of departure shall comprise four leaflets numbered from 1 to 4, and be distributed as follows after registration:

- leaflet No. 1: this shall be detached and kept at the office of departure where it is checked against leaflet No. 3 at the end of transit operations. The booklet is then delivered to the principal obligee or his authorised representative.
- leaflet No. 2: this shall accompany the goods, and shall be deposited at the office of destination where it shall be kept.
- leaflet No. 3: this shall accompany the goods and shall be deposited at the office of destination which shall then return the discharged leaflet directly to the office of departure or give it to the interested party of the representative who shall ensure its return to the office of departure.
- leaflet No. 4: this shall accompany the goods and shall be deposited at the office of destination which shall forward it to the body charged with statistics in the Member State of destination. Additional leaflets shall be made available to serve as notice of passage.

### **Article 7**

Additional documents to the Inter-State Road Transit Declaration shall be regarded as an integral part of it.

### **Article 8**

In case there are additional documents to the Inter-State Road Transit System in a Member State of departure to another Customs System, reference shall be made to this additional documents and to any other corresponding documents on the Inter-State Road Transit Declaration.

### **Article 9**

1. At the office of departure, as many leaflets of the notice of passage relative to the number of transit offices shall be produced in support of the Inter-State Road Transit Declaration.
2. After registration, the notice of passage are handed back to the principal obligee, or to his authorised representative.

### **Article 10**

The principal obligee shall be bound:

1. to follow the itinerary as specified
2. to deliver the goods intact at the office of destination within the prescribed period
3. to respect the provisions concerning the Inter-State Road Transit System and transit in each of the Member States whose territory is used for the transportation.

### **Article 11**

The following shall be considered to constitute one means of transport, provided that they transport goods which are meant to be carried together:

1. a sealed Road Vehicle;
2. a sealed Road Vehicle accompanied by its trailer(s) or semi-trailer;
3. container loaded on to a means of transporter as understood by the present article.

The same means of transport may be used to load up goods in containers at several departure points, just as it can be used for off-loading at several offices of destination.

### **Article 12**

The one means of transport shall only convey goods covered under the Inter-State Road Transit Regime.

### **Article 13**

Only goods loaded or supposed to be loaded on to only one means of transport and meant to be transported from the same office of departure to the same office of destination may be presented on the same Inter-State Transit Declaration.

### **Article 14**

The office of departure shall register the Inter-State Road Transit Declaration, indicate the itinerary and prescribe the period within which the goods shall be delivered at the office of destination and shall draw up identification procedures it thinks fit.

After making all the Inter-State Road Transit Declaration leaflets and the notices of passage as appropriate, the office of departure shall keep the leaflet No. 1 for it and shall submit the booklet as well as all the notices of passage to the principal obligee or his authorised representative.

### **Article 15**

1. The security of goods shall be ensured by sealing.  
The sealing shall be done:
  - a. by vehicle
  - b. by packages or containers.
2. Sealing of vehicle shall be done only if the vehicle or vehicles
  - a. can be sealed easily and effectively;
  - b. are constructed in such a manner that no goods can be removed or added without damage leaving visible traces or without the seal being broken;
  - c. contain no concealed space that may allow goods to be hidden;
  - d. the spaces reserved for loading are easily accessible for customs inspection.
3. The office of departure may do without sealing when, in view of other possible measures taken for identification, the description of goods in the Inter-State Road Transit Declaration allows identification.

### **Article 16**

1. The transportation of goods shall be carried out under the cover of the Inter-State Road Transit Booklet.
2. Transportation shall be carried out through the offices indicated on the Inter-State Road Transit Declaration. However, when justified by circumstances, other passage offices may be used as directed by the appropriate authority.
3. In each office open for transit, an official register shall be kept to register, in chronological order, all transit operations effected with reference to the number of ECOWAS/ISRT Log-Book.
4. The Inter-State Road Transit Declaration leaflets shall be presented in each Member State whenever demanded by the Customs authorities which shall ensure that the sealings are intact. Except in cases where foul play is suspected, the Customs authorities of Member States shall respect the sealings done at the office of departure.

### **Article 17**

At each transit office, the transporter shall present, on his arrival the cargo as well as the Inter-State Road Transit Booklet.

### **Article 18**

The transit office shall:

1. Ensure that it is included in the list of transit offices indicated on the Inter-State Road Transit Declaration;
2. Check to see that the sealings are in order;
3. Not carry out a check on the goods unless it suspects irregularities which may give rise to foul play;
4. Put its stamp on all Inter-State Road Transit Declaration leaflets and transit notices that are presented.
5. Keep back one of the transit notices presented to it by the transporter and gives back to the latter all the Inter-State Road Transit Documents as well as the remaining transit notices.
6. Shall affix its seal on its part of the declaration of discharge and return the log-book to the transporter. The annotated discharge leaflet shall be addressed to the corresponding office undertaking for checking.

### **Article 19**

When in accordance with the provisions of paragraph 2 of Article 6, transportation takes place unavoidably through a transit office other than the one mentioned to the Inter-State Transit Declaration and the transit notices, the transit office used shall find out from the transporter the reason for changing his itinerary, state the reasons given briefly on the document presented to him, apply the provisions of article 18 and immediately send the transit notice to the transit office which ought normally to have been used and which appears on the document in question.

### **Article 20**

Goods listed on Inter-State Transit Declaration may, without any need for the renewals of the declaration, be transferred to another means of transport under the supervision of the Customs authorities of the Member State on the territory where the transfer is carried out. In this case, the Customs authorities shall mark as appropriate the Inter-State Transit Declaration leaflets and the transit notice.

### **Article 21**

In case the sealing is damaged in the course of transportation for reasons beyond the control of the transporter, the latter shall, without any delay, ask for a statement to that effect in the Member State where the means of transportation happens to be at that time, from the Customs authorities if it is in the vicinity, or, where that is not possible, from any other competent authority. The authority contacted shall then apply new sealings if possible. Report of the damage of sealing and the statement made to that effect and of the application of new sealing, as the case may be, shall then be made on the Inter-State Road Transit Declaration leaflets and the transit notice in the possession of the transporter.

### **Article 22**

In case of an accident necessitating the transfer of goods to another means of transport, the provisions of article 20 shall apply. If there is no Customs authorities in the vicinity, any other competent authority may intervene in accordance with the provisions of article 21.

### **Article 23**

In case of imminent danger necessitating immediate off-loading, partial or total, the transporter may use his discretion but shall report the steps taken on all the Inter-State Road Transit Declaration leaflets and the transit notice in his possession. The provisions of article 21 shall apply in this case.

### **Article 24**

When as a result of an accident or other incidents which occurred during transportation, the transporter is not in a position to respect the time limit envisaged in article 14, the competent authority shall indicate this on the Inter-State Road Transit Declaration leaflets and the transit notices in the possession of the transporter.

### **Article 25**

The office of destination shall indicate on the Inter-State Road Transit Declaration leaflets whatever verification was carried out. Leaflet No. 3 shall be sent back to the office of departure in accordance with the procedure stipulated in article 6.

### **Article 26**

- a. The Inter-State Road Transit Operation may be terminated, in exceptional cases, at an office other than the one specified in the Inter-State Road Transit Declaration. The Office in question then becomes the Office of destination and the reason for the change shall be indicated on leaflets Nos. 2, 3 and 4 of the declaration.
- b. The principal obligee and guarantor shall be free from their obligation vis-a-vis Customs authorities, when transit operation is completed with a discharge in the Customs Office of departure.

## **Chapter IV Security**

### **Article 27**

1. In order to facilitate the collection of duties and other levies which a Member State shall charge for goods which pass through its territory during Inter-State Road Transit, the principal obligee shall provide acceptable security.
2. The sum of the security shall cover at least the sum of duties and taxes payable on such goods and possible penalties that may be incurred.
3. The security may be comprehensive and made to cover several Inter-State Road Transit Operations or be limited to a single Inter-State Transit Operation.
4. The comprehensive security shall cover several Inter-State Transit Operations carried out within a period not exceeding one year.

### **Article 28**

1. The security mentioned in Article 27 above shall be a guarantee provided by a reputable financial institution affiliated to the West African Clearing House or any Institution of the Member State or legal entity approved by the Member State.
2. This guarantee shall cover transit operations from the bureau of departure to the bureau of destination.
3. The guarantee mechanism shall conform with the legislative, regulatory and administrative provisions of each member State during the transitional period of three (3) years.
4. The sample of the document and the certificate of guarantee are provided for in Annex "C"

## **Chapter V Reporting of offences**

### **Article 29**

1. When an infringement is established in the course of and at the time of an Inter-State Road Transit Operation in a Member State, the duties, taxes and fines that may be incurred shall be collected by the Member State in conformity with the laws and regulations in force in each Member State.
2. If the place of the infringement cannot be determined, then it shall be deemed to have been committed:
  - a. in the Member State where the infringement was noticed, when in the course of Inter-State Road Transit Operation, the infringement is noticed at the office of an entry point in a Member State which is an internal border;
  - b. in the Member State to which the office is attached, when in the course of an Inter-State Road Transit Operation the infringement was noticed in the passage office of a Member State located at a border;
  - c. in the Member State to which the Office of this entry point is attached, when in the course of an Inter-State Road Transit Operation, the infringement is noticed at the office of the entry point of a Member State as defined in Article 1;

- d. in the Member State to which the Office is attached when in the course of an Inter-State Road Transit Operation the infringement is noticed at the exist office as defined in Article 1;
- e. in the Member State where the discovery was made, when in the course of an Inter-State Road Transit Operation the infringement was discovered on the territory of a Member State at a place other than a passage office;
- f. in the last Member State of entrance, by transportation means and goods, when the cargo was not delivered at the office of destination;
- g. in the State where the discovery was made when the infringement was noticed after the Inter-State Road Transit Operation was carried out.

### **Article 30**

1. The Inter-State Road Transit Declaration duly delivered and the measures of identification by the Customs authorities of a Member State shall have the same legal effects accorded declarations regularly issued and measures taken by Customs authorities of each Member State.
2. The discoveries made by competent authorities of a Member State during checks carried out within the framework of the Inter-State Road Transit System shall be equally binding as discoveries made by competent authorities of each Member.

### **Article 31**

As a matter of necessity, the Customs Administrations of the Member States shall communicate to one another, the reports of incidents, documents, certified accounts and information on transportation carried out under the Inter-State Road Transit System as well as on the infringements discovered.

## **Chapter VI Statistical provisions**

### **Article 32**

The Office of departure shall transmit without delay, after verifying the Inter-State Road Transit Declaration, to the service which in the Member State of departure is the competent authority for external trade statistics, leaflet No. 3 of the said declaration.

### **Article 33**

The Customs Office of Destination shall transmit without delay, after indicating the information specified in Article 25 to the service which in the Member State of Destination is the competent authority for external trade statistics, leaflet No. 4 of the Inter-State Road Transit Declaration.

### **Article 34**

The passage offices of exist referred to in Article 1 shall forward for necessary action, to the service which in the Member State on which they depend is the competent authority for external trade satisfies, copies of the passage notices submitted to them.

## **Chapter VII**

### **Final provisions**

#### **Article 35**

Any dispute between Member States as regards the interpretation or application of the present Convention shall be settled amicably by direct agreement.

Failing this, the dispute shall be sent by one of the parties to the Community's Tribunal whose decision shall be final.

#### **Article 36**

The annexes and appendix attached to the present Convention shall constitute an integral part of this Convention.

#### **Article 37**

1. Any Member State, desirous of withdrawing from the present Convention shall give one year notice to the Executive Secretary who shall inform all Member States. If, on expiration of this time-limit notification has not been withdrawn, the Member State concerned shall cease to be party to the present Convention.
2. In the course of the one year period indicated in sub-paragraph 1 above, this Member State shall continue to comply with the provisions of the present Convention and remain bound to fulfil their obligations arising from the provisions of this Convention.

#### **Article 38**

Movement of goods under the Inter-State Road Transit Regime shall be subjected to the different national regulations of the Member States provided that they are not contrary to the provisions of the present Convention.

#### **Article 39**

Each Member State shall, in agreement with their immediate neighbouring Member State establish a list of the itineraries and Customs Offices along the itineraries open to Inter State Road Transport of goods.

#### **Article 40**

1. The present Convention shall enter into force provisionally upon signature by Heads of State and Government of Member States and definitively upon ratification by at least seven signatory States in accordance with the Constitutional procedure applicable for each signatory State.
2. This Convention and instruments of ratification shall be deposited with the Executive Secretariat of ECOWAS which shall transmit certified true copies of this Convention to all Member States and notify them of the dates of deposits of the instruments of ratification and shall register this Convention with the Organisation of African Unity, the United Nations and such Organisation as the Council shall determine.

3. Each Member State shall inform the Executive Secretariat of the arrangement for the enforcement of the present Convention. The Executive Secretariat shall communicate this information to the other Member States of such arrangements.

IN WITNESS of which, we, Heads of State and Government of the Member States of the Economic Community of West African States (ECOWAS) have given our signature to the present Convention.

IN FAITH WHEREOF WE the Heads of State and Government of the Economic Community of West African States have signed this Convention.

Done at Cotonou this 29th day of May 1982 in single original in the English and French languages both texts being equally authentic