



# A Review of International Legal Instruments

Facilitation of Transport and Trade in Africa

Second Edition

## CHAPTER VII

Jean Grosdidier de Matons

TREATIES

CONVENTIONS

PROTOCOLS

DECISIONS

DIRECTIVES



**SSATP**  
Africa Transport  
Policy Program

## VII. Subregional Instruments: West Africa

### A. BASIC SUBREGIONAL INSTRUMENTS<sup>148</sup>

468. **Presentation.** Like East Africa, West Africa has long experience in interstate cooperation in transport. Agreements have been signed either between States of Francophone and Anglophone groups or between States of either group. Two subregional groups are present in place: the Economic Community for West African States (ECOWAS) and the West African Economic and Monetary Union (WAEMU). These two institutions are described here, together with the maritime policy of the subregion and a number of instruments related to river navigation and operations.
469. **West African Customs Union (1959) and Economic Community of West African States (1973).** On June 9, 1959, the West African Customs Union was established by six Francophone States of West Africa: Côte d'Ivoire, Burkina Faso, Mali, Mauritania, Niger, and Senegal. The objectives and results of the Customs Union were limited, despite a revision of the original Agreement on June 3, 1966, and a tentative broadening of the institution to include Anglophone States in 1967. The Heads of State decided at the meeting in Bamako, Mali, in May 1970 to create a new grouping of States for increased economic cooperation. On April 17, 1973, the Abidjan Treaty was concluded between the same six States to form the Economic Community of African States. The same full name of the Community had been used in 1967 to designate a still-born regional grouping of Francophone and Anglophone states. The 1973 CEAO was intended to encourage the harmonious and balanced development of the economies of its Partner States (Article 3, Abidjan Treaty). For that purpose, an active policy of economic integration was to be conducted at the regional level, in particular with respect to transportation (Article 4). A unified Customs zone was created in which goods originating within the Community were to circulate without quantitative restrictions (Article 5). Tariffs were common in relations with third countries, and a special Customs regime was applied to intra-community trade. Chapter VII of the Abidjan Treaty and Protocol F annexed to the Treaty and an integral part of it provided for "the principles and main procedures of implementation of a common policy of transport and communications coordination and development." Protocol F also provided for (1) a study of the transportation system (infrastructure and

operations) of the community of states and (2) the setting up of freight bureaux and shippers councils to facilitate foreign trade. A committee for cooperation in transportation, created in the Secretariat General and composed of experts appointed by the Partner States, was to study the creation of a common transportation service.

The Abidjan Treaty is no longer enforceable as CEAO was dissolved in 1994 and replaced by WAEMU.

470. **Economic Community for West African States.**<sup>149</sup> A Protocol was concluded in Accra on May 4, 1967 for the establishment of the Economic Community of West Africa (CEAO) between 14 States, 9 Francophone and 5 Anglophone. The CEAO Articles of Association called for, among other things, eliminating Customs and other obstacles to trade within the Community and contributing to an “orderly expansion of trade” between the Partner States and the rest of the world. The Accra Protocol registered with the United Nations (No. 8623, May 4, 1967) was apparently not ratified. The successive Protocol launches of the Francophone CEAO in 1973 and of ECOWAS in 1975 indicate that it made little progress.
471. **Economic Community of West African States (ECOWAS).** ECOWAS was established by a treaty concluded at Lagos, Nigeria, on May 28, 1975. Fifteen countries are members. The treaty was replaced on July 24, 1993, by a new treaty concluded in Cotonou, Benin. ECOWAS is the guardian of the Treaty in Lagos. It inherited, in an enlarged form, the model drafted with the creation of CEAO, a bilingual institution (developments on ECOWAS are found in section C of this chapter).
472. **West African Economic and Monetary Union** replaced the Francophone Economic Community of West Africa (*Communauté économique de l’Afrique de l’Ouest*) as an enlarged non-English-speaking group. It was established by the Dakar Treaty concluded on January 10, 1994 (modified on January 29, 2003), by the Francophone States of West Africa, all members of the CFA Franc Zone. It also replaced the monetary institution (*Union monétaire ouest-africaine*) established by these States as members of the CFA Franc zone. The WAEMU organizational structure, scope, and norms appear to have been inspired by the Treaty of Rome establishing the European Economic Community. WAEMU is reviewed in section D of this chapter.

473. Presently dormant, the Mano River Declaration, dated October 3, 1973, and concluded at Amalena, established a Customs Union between Liberia and Sierra Leone (see section F of this chapter).
474. Just as in Eastern and Southern Africa, subregional institutions overlap, with some West African States belonging to groups spanning several subregions such as OHADA. Table 4 summarizes the participation of countries in the different groups.

**Table 4. Membership of Subregional Organizations, West and Central Africa**

	ECOWAS	UEMOA	OHADA
Benin	x	x	x
Burkina Faso	x	x	x
Cabo Verde	x		
Côte d'Ivoire	x	x	x
Gambia, The	x		
Ghana	x		
Guinea	x		x
Guinea-Bissau	x	x	x
Liberia	x		
Mali	x	x	x
Niger	x	x	x
Nigeria	x		
Senegal	x	x	x
Sierra Leone	x		
Togo	x	x	x

Source: SSATP

Note: Mauritania, which initially was a member of ECOWAS and of the predecessors of WAEMU, has now left all regional groups in West Africa with the exception of the *Organisation pour la mise en valeur du fleuve Sénégal* (OMVS).

## B. SPECIFIC TRANSPORT AND FACILITATION AGREEMENTS

475. **1970 Niamey Convention on Road Transport.** On December 9, 1970, a Convention regulating road transport was concluded in Niamey, Niger, between Burkina Faso, Benin, Côte d'Ivoire, Niger and Togo. The Convention entered into force in 1978 due to belated ratification by Burkina Faso. International

routes were designated in the Convention. It also set forth the maximum dimensions and weight of vehicles, signs, markings, etc. Vehicles were to (1) load in one state only for foreign destination; (2) operate through freight offices (*bureaux de fret*); and (3) comply with Customs and police regulations for border crossings. A bilingual transit card was to be delivered to each vehicle in a format set forth in an annex to the Convention. ECOWAS rules have now rendered this instrument obsolete.

This Convention is not attached as an annex to this review.

**476. 1975 Abidjan Protocol on Inter-State Road Transport.** On February 18, 1975, and based on the 1970 Niamey Convention not yet in force, Togo and Niger concluded in Abidjan a Protocol on road transport (*Protocole d'accord de transports routiers*). The Protocol regulates interstate transport. Its main provisions are the following:

- Freight is distributed between the two countries: two-thirds for Niger and one-third for Togo for goods carried through ports and equally for other goods. Passenger traffic is distributed equally. Mixed traffic (goods and passengers) is prohibited.
- Axle load is limited to 11 tons. Maximum weight of vehicles is 22 tons and 30 tons for a truck plus trailer.
- Rules are specified for licenses, transit card, insurance, etc.
- Freight forwarders and other shipping agents shall adhere to the distribution key just described.
- Transit routes are stipulated.
- Vehicles of each country may operate only transit traffic in the other country. They are not authorized to engage into domestic traffic.

The Protocol is not attached to this review.

**477.** Both the 1970 Convention and the 1975 Protocol are significant for their orientation toward a non-market approach of traffic distribution, with quota systems administered by freight bureaus. It is likely that other bilateral agreements, similar to the Abidjan Niger-Togo Agreement, were concluded and are still in force, but they have yet to be identified.

478. **River navigation.** Three river navigation instruments are in force for the Senegal and Niger Rivers (see section G of this chapter).
479. **Maritime transport instruments.** Based on the initial work of the Inter-State Ministerial Conference on Maritime Transport, the Maritime Transport Charter for West and Central Africa was concluded at Abidjan, Côte d'Ivoire, on May 7, 1975, by 23 West and Central African States: Angola, Benin, Cameroon, Cabo Verde, the Central African Republic, Chad, Congo, Côte d'Ivoire, Gabon, The Gambia, Ghana, Guinea-Bissau, Liberia, Mali, Mauritania, Niger, Nigeria, Senegal, Sierra Leone, Togo, Upper Volta (Burkina Faso), and Zaire (Democratic Republic of the Congo). These instruments are reviewed in Section H of this chapter.

### C. ECONOMIC COMMUNITY OF WEST AFRICAN STATES<sup>150</sup>

480. **Original 1975 Lagos Treaty.** The 1975 ECOWAS Treaty was supposed to be associated with the dawn of the New International Economic Order, which had been the subject of a declaration by the General Assembly of the United Nations on May 1, 1974, in New York (13 ILM 715 (1974)). It was also inspired by the development of the European Common Market. The aim of the Treaty was to promote cooperation and development for the purpose of raising the standard of living and fostering closer relations among the members of ECOWAS. For that purpose, ECOWAS was to do the following by stages:
- Eliminate Customs duties between Partner States.
  - Eliminate quantitative and administrative restrictions on trade between Partner States.
  - Establish a common tariff toward third countries.
  - Abolish obstacles to the free movement of capital and services.
  - Conduct joint development of transport infrastructure.
  - Harmonize the economic, agricultural, industrial, and monetary policies of Partner States.

The central objective was therefore to establish a Customs Union, but there were clear objectives of harmonization if not of integration.

- 481. Membership.** ECOWAS Members are Benin, Burkina Faso, Côte d'Ivoire, The Gambia, Ghana, Guinea, Liberia, Mali, Niger, Nigeria, Senegal, Sierra Leone, and Togo. Guinea-Bissau acceded in 1975 and Cabo Verde in 1979. Mauritania was a member but has since left. The withdrawal of Mauritania became effective on December 31, 2000.
- 482. Revision of the 1975 Treaty.** The 1993 revision of the 1975 Treaty was prepared by a Committee of Eminent Persons (CEP) appointed for that purpose in 1991 so that *the Community could adjust itself to the dramatic changes taking place in West Africa and other parts of the world*. The CEP identified a number of legal problems related to the 1975 treaty, among them:
- The powers of the Authority of Heads of State and Government (AHSO) and of the Council of Ministers were too vaguely defined.
  - AHSO decisions were not binding on the Partner States.
  - Protocols were not ratified by the Partner States.
  - There was no authority to interpret the Treaty, and the ECOWAS Tribunal that might have conducted such an interpretation was never actually constituted.

The CEP thus recommended moving beyond the limited level of a Customs union and reinforcing the position of ECOWAS in its relations with the Partner States.

- 483. New 1993 Cotonou Treaty.** The 1993 Revised Treaty Establishing the Economic Community of West African States substitutes economic and monetary integration and union for the Customs Union. The founders wanted to increase the economic mass and therefore the bargaining base of African economies through pooling economic sovereignty. According to this new Treaty (Article 3), the main ECOWAS objectives are as follows:
- Harmonize and coordinate policies and promote integration programs, particularly in transport.
  - Establish a common market with a common external tariff and abolish inter-Community tariffs non-tariff barriers.
  - Create an economic union.
  - Promote joint ventures in trade, transport, and industry.

ECOWAS objectives make a special mention of landlocked States as a problem to which special attention should be given (Article 3 (k)).

**484. Institutions.** The institutions of ECOWAS are the following:

- *Authority of Heads of State and Government.* This body is responsible for the general direction and control of ECOWAS, issuing guidelines in that respect. Decisions are taken either by consensus, unanimously, or by a two-thirds majority in accordance with a protocol on the subject.
- *Council of Ministers.* The Council is responsible for the functioning of the Community, making recommendations, issuing directives on matters concerning coordination and harmonization, and making regulations binding on institutions under its authority
- *Community Parliament*
- *Economic and Social Council*
- *Court of Justice and Arbitration Tribunal.* Pending the establishment of an Arbitration Tribunal provided for under Article 16 of the revised treaty, the court has the competence to act as arbitrator.
- *Executive Secretariat of the Community.* This body was replaced by the *Commission* on January 2007, following amendment of the ECOWAS Treaty in June 2006.

In general, the Commission coordinates the activities of all Community institutions. It represents the Community in its external and international relations and is responsible for strategic planning and policy analysis as well as regional integration in the subregion. The Commission adopts rules to implement the policy enacted by the Council of Ministers. These rules have the same legal force as acts adopted by the council itself. The Commission also makes recommendations and gives advice that is not enforceable. The Commission is divided into several offices, among which is the Office of the Commissioner of Infrastructure containing the Department of Transport and Telecommunications. The department has responsibility for carrying out the following functions in alignment with Articles 32 and 33 of the revised ECOWAS Treaty.

- Prepare common transport and telecommunications policies, laws, and regulations.
- Set an extensive network of all-weather highways within the Community.

- Formulate a program for the improvement of coastal shipping services and interstate inland waterways and for the harmonization of maritime transport policies and services.
- Promote the development of regional air transport services and implement air transport safety and security programs.
- Encourage the establishment and promotion of joint ventures as well as the participation of the private sector in the areas of transport and telecommunications.

There is also an Office of the Commissioner on Trade, Customs, Industry, and Free Movement, but no documents could be found on its mission.

The ECOWAS Bank for Investment and Development (EBID) was previously called the Fund for Cooperation, Compensation and Development; it was established by Article 50 of the Treaty of 1975. It was restructured in 2000-2001 and is now called EBID. It has two subsidiaries: ECOWAS Regional Investment Bank (ERIB) and ECOWAS Regional Development Fund (ERDF).

**485.** The ECOWAS Transport Policy is stated in Chapter VIII of the 1975 Lagos Treaty and in Articles 40 to 44 and Chapter VII, Article 32, of the 1993 Cotonou Treaty. There are differences of formulation between the two treaties as shown by the next two paragraphs.

The 1975 ECOWAS Treaty was filed with the UN Secretariat as No. 14843. The text appears in **Annex VII-1** of this review.

The 1993 ECOWAS Treaty concluded at Cotonou, Benin, was apparently not filed with the UN Secretariat and does not appear in the UN Treaty Series. It is available in English in *International Legal Materials* (35 ILM 660 (1996)) and the *African Journal of International and Comparative Law* (8 AJICL 187). The treaty was revised in 2006. The 1993 revised treaty appears in **Annex VII-2** of this review.<sup>151</sup>

**486.** **1975 Lagos Treaty.** The objective of the policy is to “further the physical cohesion of the Partner States and the promotion of greater movement of persons, goods and services within the Community” (Article 40). The stated policy is ambitious and strongly oriented toward subregional integration. Plans for a comprehensive network of all-weather roads within the Community are to be formulated by the Transport, Communications and Energy Commission of

ECOWAS, together with plans for reorganizing and improving the railways in view of their future connection (Articles 41 and 42). Policies on shipping and international waterways transport are to be harmonized and rationalized (Article 43). National airlines should be merged in order to promote efficiency and profitability; training of nationals and standardization of equipment will be sought (Article 44). However, Articles 40 to 44 make no specific reference to the problems of the landlocked countries of the subregion. Altogether, the policy as formulated in the treaty was strongly oriented toward the physical development of the transport system and may appear to be more of an investment program than a declaration of policy. The revised treaty reaffirmed these provisions and the laws that have been passed are directed at practical regional integration and a common market.

- 487. 1993 Cotonou Treaty.** The Partner States seek to evolve common transport policies, laws, and regulations. Plans are to be formulated for the integration of road and railway as well as road networks of the region. Programs are to be formulated for the harmonization of policies on maritime transport, and positions in international negotiations in the area of maritime transport should be coordinated. The Partner States also seek to bring about the merger of their national airlines in order to promote efficiency and profitability.
- 488. 2006 revised Treaty.** The amended Treaty reaffirms the commitments undertaken under the 1993 treaty toward transport policy. The revised Treaty mainly focuses on two changes: the Court of Justice and the ECOWAS Executive Secretariat that was transformed into a commission composed of several bodies, as described earlier.
- 489. Transport institutions.** The Department of Transport and Telecommunications is in charge of transport policy as stated in Article 32 of the revised ECOWAS Treaty.
- 490. Transport instruments.** From 1975 to 1992, 29 instruments were recorded reflecting the ECOWAS transport policy and its implementation: 1 treaty, 4 conventions, 3 protocols, 4 directives, 10 resolutions, and 7 decisions. These instruments were published in English and in French in brochures issued in 1992 by the ECOWAS Executive Secretariat. Although the earlier instruments (1975-80) reflect a period of institution building, the later instruments (1990-94) reflect delays in ratification and incomplete enforcement of the instruments of the earlier period. Details on the instruments issued in 1991 are pub-

lished in the *Official Gazette of the Community* or in brochures. From 2003 to 2011, several transport rules of origin of goods, and freedom of movement instruments were enacted by ECOWAS authorities, they are published in the *Official Gazette of the Community*. The goal is to accelerate regional integration.

- 491. Monitoring implementation and enforcement.** Follow-up of the implementation and enforcement of the different conventions, protocols, and other instruments required the establishment of national committees for that purpose. On August 6, 1994, the Conference of Heads of State and Government issued in Abuja Decision A/DEC 3/8/94 on the creation of national monitoring committees for effective implementation of decisions and protocols on transportation. The preamble to the decision refers especially to the issue of the proliferation of (official or abusive) checkpoints on interstate roads of the subregion. Each national committee was to be composed of heads of government departments with one representative of the road transport industry (Article 2). The committees would follow up implementation of the ECOWAS transport instrument “with view to facilitate the free movement of persons and goods in the subregion” (Article 3). However, because of a lack of funding for the national and regional committees in charge of the management of the transit corridors,<sup>152</sup> the ECOWAS Commission put in place in May 2007 a strategic plan for its transport policy that will be analyzed shortly.

The text of ECOWAS Decision A/DEC 3/8/94 appears in **Annex VII-3** of this review.

a. *ECOWAS Transport Program*

- 492. Decision on transport programs.** On May 28, 1980, the ECOWAS Heads of State issued Decision A/DEC 20/5/80 directing the ECOWAS executive secretary to carry out a short-term program and a long-term transport program.<sup>153</sup>

The text of ECOWAS Decision A/DEC 20/5/80 appears in **Annex VII-4** of this review.

- 493. Short-term program.** The short-term program included institutional action such as the study and adoption of international transport conventions; harmonization of legislation, regulations, and road control systems within the Community; and simplification of airport formalities. Regarding investments, studies were to be conducted on a number of road and rail links.<sup>154</sup> The possibility of establishing an ECOWAS air transport company and an ECOWAS shipping company was also to be reviewed. Two directives issued eight years

later may be significant in explaining the incomplete implementation of items in the program. Directive C/DIR 1/12/88 indicated measures to be taken by the Executive Secretariat to ensure better cooperation and coordination in the area of air transport—which was in fact a policy measure rather than a program item. The same day, Directive C/DIR 2/12/88 was issued, specifying measures for determining the means of establishing an ECOWAS coastal shipping line. Finally, in the area of air transport, Resolution C/RES 8/7/91 on a route network and flight schedules, issued in Abuja, Nigeria, on July 3, 1991, asked the Partner States to conclude between themselves bilateral air transport agreements in order to facilitate economic and political integration, and it asked them to negotiate the Fifth Freedom traffic rights.<sup>155</sup> Again, this was in fact a policy recommendation rather than a program item.<sup>156</sup>

These directives are not attached to this review.

- 494. Long-term program.** The long-term program was the realization of some of the projects reviewed in the short-term program, mainly railway projects. By Decision A/DEC 4/11/84 issued at Lomé, Togo, and making reference to the 1980 Transport Program, the ECOWAS Heads of State agreed in principle to establish an ECOWAS coastal shipping line. Again making reference to the program, Decision C/DEC 8/12/88 issued in Banjul, The Gambia, on December 6, 1988, sets forth the second phase of ECOWAS road projects related to the interconnecting roads for opening up the landlocked countries,<sup>157</sup> and also makes reference to the 1980 Transport Program.

ECOWAS Decision C/DEC 8/12/88 appears in **Annex VII-5** of this review.

- 495. Execution of program.** The physical execution of the program was the subject of Resolution C/RES 6/5/90 issued in Banjul, The Gambia, on May 27, 1990. In the Resolution, the Council of Ministers urge the Partner States concerned to initiate action toward completion of the Trans-West African Highway Lagos-Nouakchott-Dakar-N'Djamena.

The text of Resolution C/RES 6/5/90 appears in **Annex VII-6** of this review.

b. *Convention Regulating Inter-State Road Transportation*

- 496. General.** The Convention Regulating Inter-state Road Transportation between ECOWAS Member States (A/P 2/5/1982) was concluded in Cotonou, Benin,

on May 29, 1982. The Convention seeks to define the conditions under which transportation by road would be carried out between Member States. The Convention concentrates on vehicles rather than on transportation operations, the regime of which is left to domestic law (especially the rules laid down by the offices in charge of freight) or to contract law between shipper and carrier.

- 497. Stipulations.** The Convention identifies 102 routes in 15 countries as ECOPAS road axes. It sets forth axle load (11.5 tons), dimensions of vehicles, maximum number of passengers, and minimum periods for mechanical examination of vehicles (three months for goods vehicles and six months for passenger vehicles). Vehicles will be issued licenses valid for one year. Conditions of delivery of licenses shall be defined by bilateral or multilateral agreements between States. The agreements shall also stipulate for State the number and category of vehicles authorized to operate in the other state or states based on tonnage and authorized number of passengers. Waybills are to be used as evidence of the carriage contract; carriage of passengers and goods in the same vehicle is prohibited; and third-party liability insurance is compulsory.

Convention A/P 2/5/1982 appears in **Annex VII-7** of this review.

Complementary to the Convention is Resolution C/RES 3/5/90 issued at Banjul, The Gambia, on May 27, 1990. In the resolution, the Council of Ministers urges Partner States to computerize their vehicle registration system along lines proposed.

ECOWAS Resolution C/RES/3/5/90 appears in **Annex VII-8** of this review.

- 498. Additional instruments.** The following additional and complementary instruments are significant:

- Resolution C/RES 5/5/90 issued at Banjul, The Gambia, on May 27, 1990, in which Partner States are urged to introduce weighbridge and axle scales to monitor tonnage transported and axle load.
- Decision C/DEC 7/7/91 issued at Abuja, Nigeria, on July 3, 1991, in which the Council of Ministers adopts road traffic regulations based on the 11.5 ton axle load.

Resolution C/RES 5/5/90 appears in **Annex VII-9** of this review.

Decision C/DEC 7/7/91 appears in **Annex VII-10** of this review.

c. *Harmonization of highway legislation*

- 499.** Related to the Convention on road transport is Decision A/DEC 2/5/81, issued in 1981 and about the harmonization of highway legislation in the Community. This is in fact only a recommendation to Partner States.

Decision A/DEC 2/5/81 appears in **Annex VII-11** of this review.

According to the instrument, the Partner States are to do the following:

- Set up adequate administrative machinery for road transport.
  - Ratify and adhere to the 1968 Vienna conventions on road traffic and on road signs and signals (see **Annexes II-23** and **II-24**).
  - Introduce the practice of right-hand driving.
  - Adopt standardized equipment, driving licenses, and vehicle documents.
- 500.** The matter was the subject of a second instrument, Resolution C/RES 7/5/90 on the Establishment of an Appropriate Administrative Framework, which was intended to serve as a reminder of the 1981 decision. The resolution was issued at Banjul, The Gambia, on May 27, 1990. It requests the Partner States to establish an appropriate framework such as a directorate of road transport and to accelerate the implementation of ECOWAS decisions related to the transport sector.

Resolution C/RES 7/5/90 appears in **Annex VII-12** of this review.

d. *Convention and other instruments on the interstate road transit of goods*

- 501.** **1982 Convention Relating to Interstate Road Transit of Goods.** The Convention Relating to Interstate Road Transit of Goods (A/P 4/5/1982) between ECOWAS Partner States was signed in Lomé, Togo, on May 29, 1982. The Convention sought to facilitate the movement of goods in the subregion. Goods are to be covered by the Interstate Road Transit Declaration in the standard ECOWAS Interstate Road Transit Log-Book, but Partner States may impose additional documents. Goods shall be transported in means of transport satisfying conditions set forth by the Convention in terms of markings, sealing, etc. Transit offices at border points are not to carry out checks unless irregularities that may give rise to foul play are suspected (Article 18).

Convention A/P 4/5/1982 appears in **Annex VII-13** of this review.

The ECOWAS ISRT Log-Book appears in **Annex VII-14** of this review.

**502. 1988 Resolution on implementation of program.** Resolution C/RES. 1/12/88 on implementation of the program of the Higher Committee on Land Transport was issued at Banjul, The Gambia, on December 6, 1988. Under the instrument, the ECOWAS Council of Ministers resolves the following:

- Transit transport shall not, within the territory of the transit State, be subject to any Customs duties, import or export duties, or any special transit taxes levied by the said state. This statement is in reference to the 1965 New York Convention on Transit Trade for Landlocked Countries, and despite the fact that a few ECOWAS member countries did not ratify the Convention.
- Partner States shall reduce the number of road checkpoints.
- Interstate road transport and transit conventions shall be ratified by all Partner States.
- Partner States shall enforce the agreed-upon axle load limitation of 11.5 tons and implement the ECOWAS international waybill also agreed upon.

Resolution C/RES 1/12/88 appears in **Annex VII-15** of this review.

**503. 1990 Resolution on reducing the number of checkpoints in ECOWAS Partner States.** Resolution C/RES 4/5/90 was issued in Banjul, The Gambia, on May 27, 1990. It raised again the issue of checkpoints by urging Partner States to reduce their number.<sup>158</sup> The issue of landlocked countries was also raised in Resolution C/RES 6/5/90 in which the Council of Ministers urges the Partner States concerned to give priority in their investment programs to interconnecting roads facilitating access to such countries.

Resolution C/RES 4/5/90 appears in **Annex VII-16** of this review.

Again, these resolutions are significant in both the delays by Partner States in ratifying the different conventions and the inadequate enforcement of their stipulations.

e. *ECOWAS Facilitation Program*

- 504. 2003 Facilitation Program.** Because insufficient progress was being made in facilitation, the Authority of Heads of State and Government met in Dakar in January 2003 and issued Decision A/DEC13/01/03 Relating to the Establishment of a Regional Road Transport and Transit Facilitation Program in Support of Intra-community Trade and Cross-border Movements. The program was intended to (1) establish joint border posts; (2) create observatories to identify bad practices; and (3) launch an awareness campaign for implementation of the 1982 Convention Relating to Inter State Road Transit of Goods. The Trans-Coastal Lagos-Nouakchott Corridor and the Trans-Sahelian Dakar-N'Djamena Corridor were selected for implementation of the program. Member States were within 12 months to implement a series of measures at the national level to support the program, such as identifying sites for establishing joint checkpoints, establishing monitoring committees and road safety units, developing the Brown Card system, etc. The ECOWAS Executive Secretariat was placed in charge of monitoring implementation and requesting multinational grants from development partners to finance the desired and necessary actions. Following this Facilitation Program, the Abidjan-Lagos Corridor Organization (ALCO) was launched and is viewed as a perfect success story of ECOWAS Member States.

Decision A/DEC/13/01/03 appears in **Annex VII-17** of this review.

f. *Supplementary Convention on Guarantee Mechanism for Interstate Road Transit*

- 505.** According to the 1982 Convention Relating to Interstate Road Transit of Goods (A/P 4/5/1982), security for payment of Customs dues was to be provided by a guarantee from a reputable financial institution affiliated with the West African Clearing House or any government-approved institution of a Member State.
- 506.** A second instrument in that respect was Directive C/DIR 3/12/88 on the Implementation of the Land Transport Program. Among other issues, the Council of Ministers directs that the Executive Secretariat should accelerate the implementation of a single guarantee system for goods in transit.

Directive C/DIR 3/12/88 appears in **Annex VII-18** of this review.

507. In 1990 the "urgent necessity" to establish a satisfactory mechanism led to the signing in Banjul, The Gambia, of a Supplementary Convention (A/SP 1/5/90). According to the Supplementary Convention Establishing a Community Guarantee Mechanism for Interstate Road Transit of Goods, the mechanism consists of a chain of national bodies responsible for the guarantee. Each national body is designated by its Member State.

Supplementary Convention A/SP 1/5/90 appears in Annex VII-19 of this review.

g. *Convention on the Temporary Importation of Passenger Vehicles into Partner States*

508. The Convention on the Temporary Importation of Passenger Vehicles into Partner States (A/P 1/7/85) and concluded in Lomé, Togo, on July 6, 1985, is a logical follow-up to the 1979 ECOWAS Dakar Protocol Relating to Free Movement of Persons, Residence and Free Establishment (see Annex VII-26 of this review) to which it refers. The basic rule (Article 2) is that each Member State shall grant temporary admission free of import duties and without prohibitions or restrictions, but subject to re-exportation—that is, to passenger vehicles being imported for private or commercial use during a visit either by the owners of the vehicles or by other persons normally resident outside its territory. Temporary import permits known as Customs Clearance Booklets valid for one year maximum will be issued. The maximum duration of temporary importation shall be 90 days for private vehicles and 15 days for commercial vehicles. Associations and bodies, especially those associated with an international organization (e.g., auto clubs), may be authorized by governments to issue the booklets and act as guarantors of the payment of any Customs or other dues payable in case the vehicle is not re-exported.

Convention A/P 1/7/85 appears in Annex VII-20 of this review.

h. *Protocol establishing an Insurance Brown Card*

509. **Protocol.** The Protocol on the Establishment of an ECOWAS Brown Card Relating to Motor Vehicle Third Party Liability Insurance (A/P 1/5/82) was concluded in Cotonou, Benin, on May 29, 1982. Its objective was to facilitate payment of damages in case of an accident and to harmonize the settlement of claims between countries of the Community. The Brown Card was to be is-

sued by national bureaus of insurers, which would settle claims on behalf of the insurers. Partner States were to recognize the Brown Card, enact the necessary legislation for the establishment of the card scheme, and guarantee the solvency of their national bureaus by depositing in their national banks the necessary letter of credit. Local insurers were designated as subsidiary participants to the scheme; they would issue the cards to their policyholders on behalf of the national bureau and compensate this bureau for any payment to their clients.

Protocol A/P 1/5/82 appears in **Annex VII-21** of this review.

- 510.** Attached to the Protocol is a model of an inter-bureau agreement for implementation of the scheme.

The Agreement on the implementation of the Brown Card Scheme appears in **Annex VII-22** of this review.

- 511. Decision on implementation.** Decision C/DEC 2/5/83 Relating to the Implementation of the ECOWAS Insurance Brown Card states that a Council of Bureaus shall consist of a representative of each national bureau (see Article 6, Protocol). The Council has the general function of orientation, coordination, and supervision of the whole ECOWAS insurance scheme. It coordinates the operations of the national bureaus and for that purpose issues a standard inter-bureau contract that determines the maximum amount of settlement between National Bureaus. Disputes between bureaus shall be settled by the Council of Bureaus, and its decision is final. The Council may, on its own initiative or on the initiative of a government party to the protocol, propose changes in the laws and regulations of Partner States in the matter of third-party car insurance and related road traffic matters.<sup>159</sup>

Decision C/DEC 2/5/83 appears in **Annex VII-23** of this review.

- 512. Evaluation.** The ECOWAS Brown Card scheme is considered one of the region's success stories. However, the existing insurance laws in Member States need to be harmonized to provide for a common approach and modalities for the payment of compensation. The period covered by the policy should also be uniform throughout the subregion. It is worth noting that some Francophone ECOWAS Member States are also party to the CIMA Code. The similarities

and disparities between ECOWAS third-party liability and that of CIMA should be checked and any risks of conflicting laws exposed.

i. *Instruments on road safety and accident prevention*

**513. Instruments.** The issue of road safety seems to have been identified at a later stage, but the information on it is still incomplete. The instruments were:

- Directive C/DIR 1/7/92 issued in July 1992 concerned the preparation of an ECOWAS program on road safety and road accident prevention.
- Resolution C/RES 8/7/92 issued in July 1992 concerned the creation of national road safety agencies in all ECOWAS Partner States.
- Resolution C/RES 5/7/94 issued in Abuja, Nigeria, on July 27, 1994
- Decision A/DEC 2/8/94 on the Community Program for Road Safety and Road Accident Prevention in ECOWAS States issued in Abuja, Nigeria, on August 6, 1994. The decision states that two series of measures at the Community and national levels "are adopted." These are detailed in the two paragraphs that follow.

Decision A/DEC 2/8/94 appears in **Annex VII-24** of this review.

**514. Community level.** At the Community level, these measures are to be taken:

- Enforce conventions, protocols, and regulations related to facilitation and road transport, referring to the earlier 1981 Decision on harmonization of road legislation and to the 1982 Protocol on Brown Card.
- Elaborate a policy for financing road safety programs.
- Implement road safety education and awareness programs, including organization of an annual ECOWAS Road Safety and Accident Prevention Enlightenment Week.
- Create a data bank on road accidents.
- Adopt a standard regional format for accident recording.
- Create a West African Union of Road Safety Commissions.

**515. National level.** At the national level, the following measures and actions need to be taken.

- Create National Road Safety Commissions.
- Introduce compulsory technical control of vehicles.
- Implement public relations programs and awareness and training of drivers, students, and the public in general.
- Introduce regulatory measures for vehicle, driver, and passenger safety.
- Create a data bank on road accidents.

**516.** Decision A/DEC 5/8/94 issued at Abuja, Nigeria, on August 6, 1994, grants the African Group on International Road Safety (AGIRS) observer status within ECOWAS institutions.

Decision A/DEC 5/8/94 appears in **Annex VII-25** of this review.

j. *Protocol on Free Movement of Persons, Residence and Establishment*<sup>160</sup>

**517. Substance.** Protocol A/P 1/5/79 was concluded in Dakar, Senegal, on May 29, 1979. It stipulates the right of citizens of the Community to enter, reside, and establish themselves in the territory of Partner States. The Protocol was to be implemented in three phases:

- Right of entry and abolition of visa
- Right of residence
- Right of establishment

Within five years of the entry into force of the Protocol (June 5, 1980) and based on the experience gained from the implementation of the first phase, proposals were to be made to the Council of Ministers for further liberalization.

**518. Rules regarding vehicles.** Part IV of the Dakar Protocol sets forth the rules applicable to vehicles:

- Private vehicles are admitted in a Member State for a period not exceeding 90 days on presentation of documents listed in the protocol (valid driving license, etc.).
- Commercial vehicles are admitted for a period of 15 days on presentation of similar documents. The right of access of vehicles was the subject of a subsequent convention on the temporary import of such vehicles.

Dakar Protocol A/P 1/5/79 appears in **Annex VII-26** of this review.

- 519. Residence.** The second phase of the Dakar Protocol (right of residence) was the subject of Supplementary Protocol A/SP 1/7/86 concluded in Abuja, Nigeria, on July 1, 1986. It creates the right of residence in member countries for nationals of other member countries. Such a right includes the right to seek and carry out income-earning employment. A residence card or residence permit is necessary, and the protocol sets forth the conditions and procedure of delivery.

Supplementary Protocol A/SP 1/7/86 on the Second Phase (Right of Residence) of the Protocol on Free Movement of Persons appears in **Annex VII-27** of this review.

k. *Directive on road charges*

- 520.** Road charges do not seem to have been a matter of concern at the early stages of implementation of the ECOWAS Transport Program. On December 6, 1988, the Council of Ministers issued Directive C/DIR 3/12/88 in which it directs the Executive Secretariat to prepare an inventory of existing road taxes in view of their harmonization at the subregional level.

l. *Convention for Mutual Assistance in Customs Matters*

- 521. General.** Concluded in Cotonou, Benin, on May 29, 1982, this Convention has been in force since April 1995 between ECOWAS members, except Liberia, Mauritania, and Sierra Leone, which do not seem to have acceded to it.
- 522. Provisions.** The main provisions of the Convention are as follows:
- *Application (Article 2).* Partner States may request the assistance of any judicial or administrative agency of another party in the course of an inquiry in relation to the Convention. Assistance, however, does not include assistance to perform an arrest or to recover dues, fines, or other monies.
  - *Communication (Articles 5 and 6).* Communication takes place directly between the competent authorities and normally in writing.
  - *Obligatory assistance (Articles 9 and 10).* Competent authorities of the Member States will communicate to the competent authorities of the other states any significant information collected during the course of informal activities that leads to suspicions of a serious Customs or trade infringement. Any relevant document, record, or proceedings will also be

communicated. Information shall also be communicated regarding the origin and value of goods imported or exported.

- *Assistance (Articles 11 and 12)*. Assistance shall be provided during monitoring and for surveillance.
- *Statements (Article 14)*. Statements of representatives of competent authorities may, if a Member State requests it, take place before foreign tribunals and courts.
- *Presence on the territory of another Member State (Article 15)*. Competent authorities of one state may be present on the territory of another Member State upon a written request of a Member State to gain access to papers, records, and other documents.
- *Centralization of information (Article 19)*. Partner States shall cooperate in the establishment and maintenance of an index of information on Customs fraud involving persons and vehicles, under the responsibility of the Executive Secretariat.

The Convention for Mutual Assistance in Customs Matters appears in Annex VII-28 of this review.

m. *Training and professional organizations*

523. On December 6, 1988, the ECOWAS Council of Ministers issued Directive C/DIR 3/12/88 on the implementation of the land transport program. The Directive instructed the Executive Secretariat to (1) prepare a detailed inventory of transport training centers in the fields of road transport and maintenance and (2) examine the means of developing a Community Union Professional Association of Road Transport Owners. Because of this Directive, a West African Road Transporters Union has been created as an organ to promote the facilitation of road transport.

Directive C/DIR 3/12/88 is not attached to this review.

524. The *Centre régional de formation pour l'entretien routier* (CERFER), a training center in the field of road maintenance, was established in Lomé, Togo, by a Convention concluded in Abidjan, Côte d'Ivoire, on May 18, 1970, by Côte d'Ivoire, Benin, Burkina Faso, Niger, and Togo. The center was a nonprofit in-

stitution supported by contributions of the Partner States. It was established to train staff in public works (Article 2).

The Convention appears in Annex VII-29 of this review.

n. *ECOWAS strategic transport policy, 2007-2010*<sup>161</sup>

525. Under this ECOWAS plan, the priority and fundamental objectives of the sector are the following:

- *Road transport.* (1) Improve the efficiency and efficacy of road transport between states with a view toward reducing transportation costs and poverty; (2) improve the procedures and regulations (simplified and harmonized) of transportation and interstate transit and ensure safety and security at the ports along the priority corridor (Abidjan–Lagos); (3) establish a supervisory and coordinating organ to implement the program for the facilitation of transportation within regional organizations (ECOWAS and WAEMU) and in Member States; (4) reduce the propagation of the HIV/AIDS pandemic on the roads and borders between states; and (5) ensure systematic surveillance of abuses on the road between the states.
- *Rail transport.* Develop an efficient network of railways interconnected in the ECOWAS subregion.
- *Maritime transport.* (1) Develop dependable, profitable, viable, and affordable maritime transport and (2) harmonize maritime transport policies.
- *Air transport.* In relation to air transport policy and the implementation of the Yamoussoukro Decision, (1) strive for a dependable, viable, and coordinated air transport network; (2) ensure equitable access for airlines eligible for the West African market for air transportation; and (3) encourage the creation of a private regional airline. However, the West African States split into two distinct groups; UEMOA, comprising eight French-speaking West African States, and the Banjul Accord Group (BAG), comprising seven predominantly English-speaking countries. BAG was created on January 29, 2004, by Cabo Verde, The Gambia, Ghana, Guinea, Liberia, Nigeria, and Sierra Leone. BAG has produced two documents in addition to the BAG Agreement: the Multilateral Air Services Agreement (MASA) and a memorandum of understanding for the implementation of a technical cooperation project (COSCAP) for BAG MASA was signed on

January 29, 2004, by all seven West African States party to the BAG Agreement. MASA is an identical application of the Yamoussoukro Decision for the BAG Member States and even goes beyond the principles of the Yamoussoukro Decision because it emphasizes safety and security. For example, the state parties of the Yamoussoukro Decision can only reaffirm their obligation to comply with the civil aviation safety standards and practices recommended by ICAO, whereas MASA Contracting States can request consultations on the safety standards of any other Contracting States related to aeronautical facilities and services, air crews, aircraft, and the operations of designated airlines (Article VII, MASA). According to the specialists in air transport, MASA is a good example of an agreement that liberalized air transport markets.<sup>162</sup>

o. *Evaluation of ECOWAS transport policy as of December 2011*

526. The successful partnership between ECOWAS and WAEMU has resulted in regional programs that have liberalized and facilitated transit movements throughout West Africa. There are several ECOWAS and WAEMU decisions on transport at the subregional level: the Convention on Road Transit of Goods, Convention on Road Transport, Convention on Guarantee Mechanism for Inter-State Road Transit; Decision on Maximum Permissible Axle Loads, and Protocol on Vehicle Specifications for Vehicles Undertaking Transit of Goods. However, more progress is needed as on interstate roads several Customs posts seem to favor corruption. Landlocked countries such as Niger and Burkina Faso are victims of these illegal border posts. The 1,036-kilometer national road between Cotonou and Niamey used for transit transport is also full of illegal border posts. Finally, achievements have also been made in the freedom of movement of persons. No entry visa is required for citizens of Member States to travel within ECOWAS.

**D. WEST AFRICAN ECONOMIC AND MONETARY UNION<sup>163</sup>**

527. **General.** The 2003 Dakar Treaty modifying the 1994 Treaty establishing WAEMU
- Makes specific reference to the ECOWAS Treaty and confirms the adherence of the member countries to ECOWAS objectives.

- Declares the Partner States' determination to adhere to an open and competitive market favoring the optimal allocation of resources.
- Declares the objective to complete the West African Monetary Union by including an economic union.

**528. Membership.** UEMOA members are Benin, Burkina Faso, Côte d'Ivoire, Guinea-Bissau, Mali, Niger, Senegal, and Togo.

The revised Treaty in French appears in **Annex VII-30** of this review. The treaty does not seem to have been filed with the UN Secretariat. It does not appear in the UN Treaty Series.

**529. Coherence of WAEMU international law instruments.** The main provisions on the coherence of WAEMU international law instruments are as follows:

- *Article 6.* Instruments resulting from the Union or issued by the Union take precedence over any past, present, or future national legislation.
- *Article 14.* The Partner States shall, by mutual consultation, seek to take all necessary measures to eliminate contradictions or overlapping of prior instruments, commitments, or conventions entered into or acceded to with third parties.
- *Article 42.* Regulations issued by UEMOA are directly enforceable in the Partner States.
- *Article 43.* Directives indicate which results should be obtained and as such are binding obligations on the Partner States.

All instruments except recommendations must be issued with motives, and writs of execution issued are enforceable in accordance with domestic rules of civil procedure.

**530. Objectives.** According to Article 4, in addition to a monetary union and cooperation, UEMOA's objectives are as follows:

- Reinforce the competitiveness of Partner States economies in the framework of a competitive market and a rationalized and harmonized legal environment.
- Ensure the convergence of the performances of the economic policies of Partner States.
- Establish a common market between Partner States.

- Coordinate sectoral policies, including transport; harmonize the legislation of the Partner States, especially on taxation.

**531. Institutions.** WAEMU institutions are as follows:

- *Heads of State Conference (Articles 17 and seq.)*. This body defines the major orientation of WAEMU policies.
- *Council of Ministers (Articles 20 and seq.)*. The council, assisted by a committee of experts, is in charge of implementing WAEMU policies. The council issues regulations, directives, and decisions and may formulate recommendations (Article 42).
- *Commission (Articles 26 and seq.)*. The Commission, which includes the governor of the *Banque centrale des États de l'Afrique de l'Ouest* (BCEAO), is the executive branch and takes care of the day-to-day administration. The Commission issues regulations for the implementation of decisions of the Council of Ministers and stipulates decisions. It may also formulate recommendations (Article 43)
- *Court of Justice (see additional Protocol I)*.
- *Audit Court (see additional Protocol I)*.
- *Inter-parliamentary Committee (Articles 35 and seq.)*. The committee is appointed by the parliament of each Member State. It contributes to integration efforts and debates, formulates resolutions, and issues reviews. It is to participate in the drafting of a treaty establishing a parliament for WAEMU.
- *Consultative entities (Article 40)*. Among these is the *Chambre consulaire régionale*, formed by the chambers of commerce and other professional organizations of the Partner States. It is specifically mentioned in the treaty and is a good example of a public-private partnership.
- *Specialized institutions*. Examples are the BCEAO and the West African Bank for Development (*Banque Ouest Africaine de Développement*, BOAD), which "contribute in full independence to the reaching of the WAEMU objectives" (Article 41).

**532. Trade.** The following measures are to be taken (Articles 76 and seq.) in full compliance with the provisions of the General Agreement on Tariffs and Trade (Articles 77 and 83):

- Eliminate Customs duties between Partner States, quotas, other taxes, and measures of similar impact.
- Create a common external tariff.
- Issue common rules regarding competition (private and public enterprises) and subsidies.
- Facilitate freedom of movement of goods and persons.
- Implement the principle of free movement of goods and persons
- Harmonize technical standards.

Two instruments have been enacted. Decision No. 38/2009/CM/UEMOA concerns the financing of the border posts, and Regulation No. 15/2009/CM/UEMOA defines the legal regime of the border posts by clarifying the scope of the functions of border posts agents and the general framework of the control exercised at the border posts, which also participate in the control of road traffic, especially in corridors.

**533. Transport—general.** Protocol II outlines WAEMU sector policies. For the transport sector, the only policy orientations stipulated are the following:

- The establishment of a transport infrastructure and transport systems improvement scheme to be prepared by the commission
- The gradual enforcement of Articles 91 to 93 of the Treaty on freedom of residence, work, business, etc. in order to allow the adaptation of the domestic industry; facilitation of transport and transit shall be given priority.

In addition to the Protocol, specific directives and recommendations are issued on each transport mode.

**534. Road transport—general.** Since 2004, several programs and regulations and other instruments have been adopted in road and maritime transport.

In 2009 more than 10 laws were published by the UEMOA Council of Ministers on the transport and management of corridors to reinforce the integration process through the development of roads. These laws can be found on the UEMOA website and are not included as an annex of this review.

535. **Road safety.** The following ruling instruments have been enacted on road safety in the subregion:

- *Decision No. 04/2009/CM/UEMOA on the creation, organization, and functioning of the Regional Committee of Road Safety.* The scope of the committee's work, detailed in Article 2 of the Decision, includes training road users, land transport, transport infrastructure, country planning, health and assistance for road accident victims, the automobile industry, road security checks, and communications. The mission of this Committee is to provide opinion and recommendations, check that laws are enforced, organize the subregional mobilization of the different partners, suggest which norms and standards will be acceptable in the subregion, promote research, check national and regional capacity building, and consolidate strategies, instruments, and management skills in the road safety area. The committee is composed of three representatives of each Member State.
- *Directive No. 12/2009/CM/UEMOA on harmonizing the management of road safety in UEMOA States.* According to Article 3, (1) each State shall have a national road safety policy defined by the Parliament or the Government; (2) a multi-sectoral consultative body shall be established to provide opinion on all the queries regarding the concept and the implementation of the road safety policy; (3) this consultative organism shall comprise representatives of the different fields mentioned in Article 4. A managing structure shall be established with the financial autonomy to lead and implement policy, programs, and national projects on road safety, including data collection on road accidents, research, communications, information, and education and training of road users. An autonomous fund on road safety shall be established to finance activities on road safety. Article 4 calls for the mandatory participation of persons in areas related to training, construction and development of road infrastructure, urban and country planning, road checkpoints, automobile insurance, and justice—among the most important ones.
- *Directive No. 14/2009/CM/UEMOA on a computerized system for road accidents in the Union.* Article 4 of this directive establishes a form to be completed, a data collection process, and a database. The system established also includes a mapping device of road accident data and a device for monitoring road accident victims.

Several regulations have been issued by the Council of Ministers that are directly enforceable in Member States.

- Regulation No. 14/2005/CM/UEMOA on the harmonization of laws and procedures for inspection of the size of trucks transporting goods within the Member States.
- Decision No. 15/2005/CM/UEMOA on modalities to implement the regional plan of inspection on the interstate road axis following the additional Protocol II on UEMOA sector policies.
- Directive No. 08/2006/CM/UEMOA on decreasing inspection points on the interstate roads axis within UEMOA Member States.

**536. Road corridors.** WAEMU road policy is strongly oriented toward developing corridors giving access to inland areas and especially to countries without access to the sea. A major instrument is Decision No. 39/2009/CM/UEMOA on the creation and management of WAEMU corridors. This Decision created 11 corridors and organized their management.<sup>164</sup> Article 4 states that each corridor is managed by a committee that is under the supervision of an Steering Council (*Conseil d'orientation*) that is in turn under the general supervision of the WAEMU Commission. It also added that several corridors could be managed by a public-private partnership committee of 12 members divided equally among the sectors. This decision is important because it details the scope of the Orientation Council mission (Article 5) as well as that of the Managing Committee (Article 8). One innovation that the concept of public-private partnership management is created for the first time in the subregion. The mission of the Managing Committee is to (1) identify the obstacles impeding traffic and the remedies to them; (2) monitor implementation of the Community regulations of transport facilitation and road transit in the corridor for which it is responsible; evaluate the impact of all facilitation measures on corridor performance; (3) collect and disseminate all information on transport facilitation and transit on the corridor; (4) promote the corridor; (5) inform and increase users' awareness of any decision or measure that may affect the corridor; and (6) take the necessary steps to enforce the laws on transport facilitation applicable to corridors. Article 9 emphasizes the public-private composition of the Managing Committee. The Abidjan-Lagos Corridor is of special interest and is reviewed in section E.

- 537. Maritime transport.** In 1998 the WAEMU Council of Ministers issued recommendations for a common program of development of the maritime subsector (recommendations dated May 1998 and July 3, 1998) and recommendations for coordination of the different national programs on the matter. It reminded members of the importance of maritime transport in WAEMU foreign commerce. The Council expressed concerns about the declining contributions of Members' fleets to maritime traffic and the lack of coordination of national strategies in the face of the rapid changes in the international maritime environment. It also noted the lack of cooperation between operators and the weakness of data collection and communication. It therefore recommended that (1) WAEMU renew coordination efforts in a free market under regulations common to all WAEMU countries and (2) establish national committees in charge of defining the common maritime policy. Ports should cooperate and a WAEMU shipping company should be established following a cooperative effort between all public and private interested parties.

After efforts to define a maritime policy, WAEMU issued a number of recommendations and directives over the next 10 years.

- 538. Regulation No. 02/2008/CM/UEMOA.** This regulation on the terms for maritime transport in WAEMU Member States is applicable to domestic maritime transport, interstate maritime transport, and international maritime transport outgoing or incoming at a port of a Member State. This regulation is applicable to both passenger transport and the transport of goods.
- 539. Regulation No. 03/2008/CM/UEMOA.** Dated March 28, 2008, this regulation applies to ship and cargo agents and other suppliers of services in the maritime transport and port industry in the Member States.
- 540. Directive No. 04/2008/CM/UEMOA.** Dated March 28, 2008, this directive concerns the implementation of a harmonized institutional framework of the maritime subsector within WAEMU countries. The goal of this directive is to facilitate the implementation of a joint development program of the maritime subsector. It also seeks to harmonize the actions of the different public and private institutions that intervene in the subsector.

All together, the delay between the 1998 definition of policies and their tentative implementation 10 years later seems to indicate that the problems of implementing a common maritime policy are difficult to solve. Traffic is in the hands of foreign com-

panies, and the competition is acute, which does not exclude arrangements between companies in the tradition of the old shipping conferences. Information is difficult to obtain because of the secretive tradition of the sector. The costs of establishing a WAEMU company would be very high. Such a company can exist only under a national flag, which also raises serious issues. Finally, cooperation between ports is largely an illusion, especially because African ports are increasingly in competition owing to the development of land transport between countries.

- 541. Air transport.** In 2002 a common air transport program framework was launched within WAEMU Member States based on Article 2 of the Treaty. The main objectives were to (1) open up the Union territory; to develop a safe air transport system in alignment with international norms; (2) promote efficacy of civil aviation administration and the competitiveness of air transport operation; (3) give the poor access to air transport at a lower cost; and (4) ensure harmonization of the sectoral national policies. The West and Central Africa Air Transport Safety project was launched and financed by the World Bank in 2006 with the objectives of improving the compliance of civil aviation authorities (CAAs) with International Civil Aviation Organization (ICAO) safety standards; increasing the compliance of CAAs with ICAO security standards; and finally enhancing the compliance of the main international airports with ICAO security standards. The project is now in its final phases, and the results have been judged satisfactory.
- 542. Evaluation.** Although the WAEMU is building strong institutions, many challenges must still be overcome to fulfill the treaty's goals. In 2008 the WAEMU Commission underlined in its annual report the persistence of barriers to the movement of goods. An example of this resistance is the technical and administrative bottlenecks imposed on community products, such as inspection formalities before boarding and the requirement to import minimal quantities. There are also physical obstacles to the freedom of movement of goods, such as escorts, undue deductions, and a multiplicity of barriers along the Corridor of the Community.
- 543. Road transport.** In road transport, a community action plan is being implemented. It has five components: (1) Road Program I, WAEMU /Ghana; (2) a road construction program for the Bamako-Dakar corridor by the south; (3) a construction program for the Dori-Tera road; (4) a construction program and transport facilitation for the Dakar-Conakry corridor; and (5) the Boke-Quebo road construction project and transport facilitation for the Conakry-

Bissau corridor. Most of these road construction and transport facilitation programs are ongoing despite the financing challenges Member States are facing. As for transport facilitation on these projects, the construction, equipping, and implementation of inspection points at the borders have been completed for some of the projects. An observatory of inappropriate practices has been developed on major interstate roads with external support. The rules on the simplification and harmonization of procedures of movement of goods and vehicles in the corridor are being developed.

544. **Maritime transport.** Since 2008 several regulations have been adopted for maritime transport in order to harmonize and strengthen the sector. The laws developed in 2009 are in response to the difficulties faced in transport and transit facilitation. The management concept of a public-private partnership in the management of corridors should improve the facilitation and transit process in the subregion.
545. **Air transport.** For several years after adoption of the common air transport program WAEMU made progress by adopting several regulations in conformity with the Yamoussoukro Decision; some of them even exceeded the decision. For example, Regulation 24/2002/CM/UEMOA on conditions for market access of air carriers within WAEMU grants all freedoms, including cabotage, after entitlement by the state members. This regulation exceeds the requirements of the Yamoussoukro Decision, which includes Third, Fourth, and Fifth Freedom traffic rights. Regulation No. 07/2002/CM/UEMOA on tariffs on air service for passengers, freight, and mail within WAEMU allows carriers to freely fix tariffs by filing only 24 hours in advance, whereas the Yamoussoukro Decision requires filing at least 30 days in advance.

## **E. ABIDJAN-LAGOS CORRIDOR**

546. **General.** The Memorandum of Understanding creating the Abidjan-Lagos Corridor was signed in Accra, Ghana, in September 2007 by Benin, Côte d'Ivoire, Ghana, Nigeria, Togo, and the ECOWAS Commission. Its scope includes the movement of goods and persons along the corridor (Article 1.2). This MoU was followed by another MoU signed between the ECOWAS Commission and the Abidjan-Lagos Corridor Organization (ALCO) in July 2008. In that MoU, the two signatory parties agreed (1) that they would devel-

op and maintain an excellent framework of collaboration and dialogue and (2) that the ECOWAS Commission would entrust ALCO with part of the implementation of its road transport and transit facilitation program.

**547. Provisions.** The main provisions of the MoU creating the Abidjan–Lagos Corridor are stated in Chapter 2, Border Post Management and Law Enforcement, and in Chapter 3, Institutional Arrangements. The most important provisions follow:

- Provide adequate and well-maintained border post facilities that meet the requirements of border post users and operators.
- Improve Customs cooperation by strengthening training on trade facilitation in favor of all stakeholders, especially for Customs officers.
- Improve the exchange of statistics, transit monitoring, and data sharing between Customs headquarters and border points in and among the corridor countries.
- Establish intergovernmental joint border committees to serve as a forum for consultation and communication on issues related to border post operations.
- Harmonize business hours of all national border agencies on both sides of borders and extend the business hours of border posts to facilitate the movement of goods and persons where it is justified by the level of traffic.
- Develop and implement coordinated strategies for road traffic control, including axle load control, and traffic law enforcement.
- Develop a common schedule of road traffic-related offenses and penalties as well as documents used by law enforcers.
- Eliminate en route controls for transit cargo and passengers.
- Ensure regular maintenance of the road infrastructure.
- Install and maintain signaling and marking.
- Control the encroachment and improvement of the safety and security of vehicles, users, and goods.

**548. Objectives.** The objectives of this arrangement are (1) to facilitate the movement of goods and persons on the Abidjan-Lagos Corridor by simplifying and harmonizing the border controls that govern the movement of goods and per-

sons, enabling interconnectivity among Customs authorities along the corridor, or developing and implementing coordinated strategies for road traffic control and road safety; (2) establish, build consensus, and foster cooperation and information flows among all control agencies at the border; (3) secure and monitor the implementation of the ECOWAS Transport Program along the Corridor; and (4) ensure compliance with the international transit code.

- 549. Institutions.** The additional Protocol of 2008 established ALCO as the corridor organization for the fight against HIV/AIDS. The Road Transport and Transit Facilitation and Cross-Border Corridor Management Committees in West Africa were created by the decision of the Heads of State and Government in 2005 to monitor the performance of the corridor.
- 550. Evaluation.** Overall, the outcome of the project is satisfactory in all its components. In terms of health, it has promoted awareness of the HIV/AIDS danger and reduces the stigma against the sickness and better collaboration among state members. As for transport and transit, it has increased the capacity building of Customs agents along the borders and better practices to apprehend the criminals. A six-year World Bank-financed project became effective in August 2010 that seeks to reduce the barriers to trade and transport in ports and on the roads along the corridor.

The Memorandum of Understanding creating the Abidjan–Lagos Corridor on Transport and Transit Facilitation appears in **Annex VII-31** of this review.

## **F. MANO RIVER UNION<sup>165</sup>**

- 551. General.** The Mano River Declaration was concluded in Malema, Sierra Leone on October 3, 1973, by the Presidents of Liberia and Sierra Leone, in follow-up to two statements issued March 16, 1971, and January 28, 1972, on accelerating the economic growth, social progress, and cultural advancement of the two countries. Guinea joined the Mano River Union on October 25, 1980. According to the Declaration:
- A Customs union called the Mano River Union is created.
  - Mutual trade between Mano River Union members will be liberalized through the elimination of tariff and nontariff barriers.

- Rates of import duties for goods of local origin will be harmonized
- The secretariat of the Union shall be in Freetown and a Customs training school will open in Monrovia.

552. **Transport.** Additional agreements were concluded in the form of successive protocols on which information is missing. The Consolidated Fourth Protocol (1980) identifies a series of instrumental activities or common policies, such as a common program for the development of transport. The Consolidated Thirteenth Protocol establishes a Union Technical Commission for Transport and Communications in the Secretariat.

553. **Evaluation.** The Mano River Union underwent a dormant period because of political turmoil in the region. It was reactivated on May 20, 2004, at a Summit of Heads of State organized in Conakry, Guinea. However, no documents are available to allow a practical analysis.

The Mano River Declaration was filed with the UN Secretariat as No. 16308 (reference 952 UN Treaty Series 264). A copy of the Declaration appears in **Annex VII-32** of this review.

#### **G. RIVER TRANSPORT INSTRUMENTS<sup>166</sup>**

554. Four instruments are in effect:

- Two 1972 instruments related to the Senegal River: the *Convention relative au statut du Fleuve Sénégal* and the *Convention portant création de l'Organisation pour la mise en valeur du fleuve Sénégal*
- Two 1964 and 1980 instruments related to the Niger River.

The 1972 instruments on the Senegal River were preceded by a first agreement concluded on February 17, 1968, and establishing *the Organisation des États riverains du fleuve Sénégal* (OERS). Partner States were Guinea, Mali, Mauritania, and Senegal. The agreement was registered with the UN Secretariat (672 UN Treaty Series 251). The OERS was dissolved on November 17, 1971, following difficulties in relations between Guinea and Senegal.<sup>167</sup>

555. The *Convention et Statuts relatifs à la mise en valeur du bassin du Lac Tchad*, concluded by Cameroon, Chad, Niger, and Nigeria on May 22, 1964, includes

Article 7, which declares that the Partner States “shall establish common regulations to facilitate to a maximum navigation and transport on the lake.” These regulations were to be drafted by the Chad Basin Commission created by the same convention and seated in N’Djamena.

- a. *1972 Nouakchott Convention Relating to the Senegal River*
556. The *Convention relative au statut du fleuve Sénégal* was concluded in Nouakchott, Mauritania, on May 11, 1972. Signatories were Mali, Mauritania, and Senegal. The preamble refers to the rational economic use of the Senegal River and its use for navigation. Only this aspect is reviewed here.
557. **Principles.** The Convention refers in its preamble to the UN Charter and to the Charter of Africa Unity but not to the 1921 Convention on International Rivers. The reason may be that these States, then French colonies, did not benefit from the French ratification of the 1921 convention. The main principles of the Convention are as follows:
- *Article 1.* The Senegal River is designated as an international river (*fleuve international*), including its tributaries. There is, however, no definition of an international river and, as just noted, the Convention does not refer to the 1921 instrument that could have provided such a definition.
  - *Article 2.* The Partner States “solemnly affirm their will to guarantee equal treatment of users.”
558. **Provisions on transport.** The main provisions on transport of Title II of the Convention are as follows:
- *Article 6.* Navigation is “entirely free and open to the citizens [of the Partner States], to boats and goods from the Partner States, to boats chartered by one or more Partner States, on an equal footing as regards port and navigation dues.” Specific regulations, to be issued later, will apply to foreign boats.
  - *Article 7.* The Partner States commit themselves to the maintenance and conservancy of the Senegal River. Separate conventions shall set forth rules and procedures of financing.
  - *Article 8.* Dues or rates shall not be discriminatory and shall be levied only for compensation of costs of services to shipping and navigation.

- *Article 9.* Roads, railways, and canals that may be constructed for the special purpose of avoiding the non-navigable portions of the river shall be considered an integral part of the river and shall be equally open to international traffic. The same regime shall apply to lakes. On the roads, railways, and canals, tolls shall be computed on the basis of and limited to the compensation of construction, conservancy, and administration of facilities and services.
- *Article 10.* A joint agency shall be established for the safety and control of navigation in order to facilitate traffic as much as possible.

The Convention appears in Annex VII-33 of this review, but does not appear to have been filed with the UN Secretariat and cannot be traced in the Treaty Series.

b. *1972 Nouakchott Convention portant création de l'Organisation pour la mise en valeur du fleuve Sénégal*

559. *The Convention portant création de l'Organisation pour la mise en valeur du fleuve Sénégal* was concluded in Nouakchott, Mauritania, on May 11, 1972, and amended on April 15, 1973, by Resolution No. 4/CCEG CD. Signatories were Mali, Mauritania, and Senegal, and Guinea has since joined the group.
560. **Scope and objectives.** The Convention creates a “joint cooperation agency for the development of the resources of the Senegal River, named the *Organisation pour la mise en valeur du fleuve Sénégal* (OMVS).” The agency is to implement the 1972 convention and to coordinate studies and research and any assignment that the Partner States may give it (Article 1).
561. **Institutions.** The institutions of the agency are the following:
- *Conference of Heads of State (Articles 3 to 6).* This body is in charge of policy definition and decisions.
  - *Council of Ministers.* This “organ of policy definition and supervision of the agency” (Article 8) defines the general policy, approves the budget, and makes financial decisions, especially on the financial contributions of each Member State (Articles 8 to 11).
  - *General Secretariat (Articles 12 to 16).* This permanent body is in charge of the day-to-day administration, studies, reviews, statistics, etc.

562. **Evaluation.** There is continual progress on strengthening the agreements between the river States. The 2002 Charter setting the principles and procedures for allocating the use of water by the different sectors is an example of this continuing effort and is especially important for the sustainable development of the subregion. Several attempts have been made to increase the participation of Guinea in the decision-making process. In 2003, Guinea participated in the Summit of Heads of State in Nouakchott, Mauritania. In 2004, the country participated for the first time in the Inter-Ministerial Meeting held in Dakar, Senegal, between Guinea and OMVS Member States.

The *Convention portant création de l'Organisation pour la mise en valeur du fleuve Sénégal* appears in **Annex VII-34** of this review. The Convention does not appear to have been filed with the UN Secretariat. It cannot be traced in the UN Treaty Series.

c. *1964 Niamey Agreement Concerning the Niger River Commission and the Navigation and Transport on the River Niger*

563. The Agreement Concerning the Niger River Commission and the Navigation and Transport on the River Niger was concluded at Niamey, Niger, on November 25, 1964, by Benin (then Dahomey), Burkina Faso (then Haute Volta), Cameroon, Chad, Côte d'Ivoire, Guinea, Mali, Niger, and Nigeria. It was revised in Niamey on February 2, 1968, and June 15, 1973, in Lagos on January 26, 1979, and by the Faranah Convention on November 21, 1980.
564. The 1964 Niamey Agreement on the Niger River Commission is enforceable because all Partner States ratified it in 1965–66. It was adopted at the Conference of the Riparian States of the River Niger, Its Tributaries and Sub-tributaries, in Niamey in October 1963. The conference adopted the Act of Niamey setting forth the principles of cooperation between riparian states. However, the 1964 Niamey Agreement, according to its Article 12, is an integral part of the Act of Niamey.
565. **Enforceability of 1921 Convention.** The 1964 Niamey Agreement makes no reference to the 1921 Convention on International Rivers. The Partner States therefore do not consider themselves bound by the provisions of this Convention. It should be noted, however, that Nigeria may be a party to it because it inherited the ratification operated by the United Kingdom on its account when the country was part of the British Empire. Anyway, the rules set in the

Agreement are in line with the spirit of the 1921 Convention, especially in the opening to international traffic, equal treatment, and the reasonableness of tariffs and rates.

**566. Institutions.** The main provisions of the 1964 Niamey Agreement are:

- *Article 1.* A Niger River Commission is established in Niamey.
- *Article 2.* The Commission shall prepare general regulations for the full application of the principles set forth in the Act of Niamey. Such regulations shall be binding on the riparian States after their approval and a time limit set by the Commission. The Commission will ensure liaison with the Partner States, collect all information on the Niger River and its basin, follow the progress of studies and works in the basin, and draw up navigation regulations.
- *Articles 3 to 8.* Each riparian State shall appoint a commissioner. Commissioners will meet once a year. An administrative secretary will conduct with staff the affairs of the Commission.
- *Article 11.* The Commission shall have the status of an international organization.

The Niger River Commission appears to have met six times between 1964 and 1980 and was replaced that year by the Niger Basin Authority.

**567. Transport.** Provisions of the Agreement regarding transport are as follows:

- *Article 13.* Taxes and duties payable by vessels and goods using the river and its facilities shall be in proportion to services rendered to navigation and shall in no way be discriminatory.
- *Article 14.* Roads, railways, and canals that may be constructed for the special purpose of avoiding the non-navigable portions of the river shall be considered an integral part of the river and shall be equally open to international traffic.

On these facilities, only such tolls shall be collected as calculated on their cost of construction, maintenance, and management. For such tolls, the nationals of all States shall be treated on the basis of complete equality.

The Agreement Concerning the Niger River Commission and the Navigation and Transport on the River Niger was filed with the UN Secretariat as No. 8507 (reference 587 UN Treaty Series 362). The text appears in **Annex VII-35** of this review.

d. *1980 Convention Creating the Niger Basin Authority (with a Protocol Relating to the Development Fund of the Niger Basin)*

**568. General.** The Convention Creating the Niger Basin Authority was concluded in Faranah, Guinea, on November 21, 1980, by the Signatories of the 1964 Niamey Agreement, of which it is, according to its Article 21, a revision. Based on the 1964 Act of Niamey, it originates in a will to give new energy to the River Niger Commission, as decided in a meeting of the Heads of State and Government held at Lagos in January 1979. The final objective is a promotion of economic development through an integrated development of the Niger River Basin (see preamble of the Convention).

**569. Institutions.** The following provisions describe the institutions of the Niger Basin Authority:

- *Article 1.* Niger River Commission becomes Niger Basin Authority.
- *Articles 5 to 7.* The institutions of the Niger Basin Authority are the Summit of Heads of State and Government, Council of Ministers, Technical Committee of Experts, and Executive Secretariat and its specialized agencies. The Summit of Heads of State and Government meet every two years and defines the general orientation of the policy of the authority. The Council of Ministers meets annually and monitors the activities of the Executive Secretariat, the executive branch of the authority. Each Member State is represented in both bodies and has one vote.
- *Articles 10 to 14.* The operating budget of the authority is financed by the contributions of Member States, paid in convertible currency. Accounts are kept in special drawing rights.
- *Article 16.* The Niger Basin Authority is incorporated as an intergovernmental institution. The executive secretary and his or her deputy are granted diplomatic immunity.

**570. Transport.** The responsibilities of the authority are much broader than those of the commission. It is in charge of all integrated development policies in the

Niger Basin, including transport. Its specific duties in the area of transport are described in Article 4-2(b) as the following:

- Design, study, and construction of works, plants, and projects in the field of transport
- Improvement and maintenance of navigable waterways
- Development of river transport and promotion of an integrated multi-modal transport system (sea-river-rail-road) as a factor of integration and for opening up the landlocked Sahelian Member States.

As the 1980 Faranah Convention is only a revision of the 1964 Niamey Agreement, it is likely that the financial provisions (tolls and dues) stipulated then are still in effect.

The Convention Creating the Niger Basin Authority and its attached protocol came into force on December 2, 1982. It was filed with the UN Secretariat as No. 22675 and is published in the UN Treaty Series. The text appears in **Annex VII-36** of this review.

571. At the 8<sup>th</sup> Summit of the Heads of State and Government held on April 30, 2008, a legal instrument was adopted. The purpose of this instrument is to ensure that the Niger River is managed in a sustainable manner, and also it serves as a legal basis to prevent and manage potential risks that may arise from users of the river. There is now greater interest in the management of the river because it serves a large percentage of population of the riparian countries not only as their transport to access social services and markets, but also for the important role that its good use could play in reducing poverty and protecting the environment.

## **H. MARITIME TRANSPORT CHARTER FOR WEST AND CENTRAL AFRICA AND SUBSEQUENT INSTRUMENTS**

572. Three levels of instruments are reviewed in this section:

- 1975 Maritime Transport Charter setting forth basic policy objectives
- 1977 Convention on the institutionalization of the Ministerial Conference of the ministers in charge of maritime transport in Partner States
- Annexes to the 1977 convention (two) being themselves conventions establishing the following:

- Association of National Shipping Lines
- Union of National Shippers' Councils
- Ports Management Association
- A framework of regionalization of the Nungua/Accra and Abidjan Maritime Training Centers.

None of these instruments were filed with the UN Secretariat. They are not inserted in the UN Treaty Series.

a. *1975 Abidjan Maritime Transport Charter*

573. **General.** The Maritime Transport Charter concluded in Abidjan, Côte d'Ivoire, on May 7, 1975, was ratified or acceded to by Angola, Benin, Burkina Faso, Cameroon, the Central African Republic (then Empire), Cabo Verde, Chad, Republic of the Congo, Côte d'Ivoire, Equatorial Guinea, Gabon, The Gambia, Ghana, Guinea, Guinea-Bissau, Liberia, Mali, Mauritania, Nigeria, Niger, Senegal, Sierra Leone, Togo, and Zaire (today, Democratic Republic of the Congo).
574. **Maritime affairs.** The decisions on maritime affairs made during the 1975 Abidjan conference and formulated in the charter were as follows:
- Set up a permanent coordinating body on maritime transport and institutionalize the Conference of Ministers in Charge of Maritime Affairs (Ministerial Conference).
  - Establish shippers' councils and regroup them within the framework of a cooperating body.
  - Set up national and regional facilitation committees.
  - Organize state intervention in the area of ancillary services such as stevedoring, cargo handling, freight forwarding, etc.
  - Encourage grouping of freight and the development of FOB imports and CIF exports.
  - Develop local maritime insurance entities.
575. **Shipping companies.** The objectives selected were as follows:
- Develop local shipping lines.

- Take the majority of shares when developing a shipping company with foreign participation.
- Set up an African Conference for West and Central Africa.
- Ensure rapid “Africanization” of the representatives in Africa of foreign maritime conferences serving Africa.
- Undertake a study on the feasibility of setting up international shipping companies.

**576. Ports.** The decisions made were as follows:

- Develop management structures with wide port management autonomy to increase efficiency.
- Encourage management association of West and Central African ports.
- Undertake development studies for the accommodation of container vessels and bulk carriers.

**577. Landlocked States.** For these States, the following objectives were set:

- Institutionalize the participation of landlocked States in the management of ports serving the hinterland.
- Grant preferential tariffs to hinterland-bound or export cargoes from landlocked States.

**578. Training.** A decision was made to develop regional training centers & schools.

The Maritime Transport Charter for Central and West Africa appears in **Annex VII-37** of this review.

b. *Convention on the Institutionalization of the Ministerial Conference*

**579.** The Accra Convention on the Institutionalization of the Ministerial Conference was replaced by the Maritime Organization for West and Central Africa (OMAO), which is reviewed in chapter III, Regional Instruments.

**580. Objectives.** On February 27, 1977, the Signatories of the Maritime Transport Charter signed the Convention on the Institutionalization of the Ministerial

Conference in Accra, Ghana. The objectives of the Conference are as follows (Articles 1 to 5):

- Set up national and regional merchant fleets, shippers' councils, and regional training centers.
- Adopt measures to improve and develop port management and operation and to give preferential and adequate treatment to the need of landlocked countries for access to the sea.

**581. Institutions.** The Ministerial Conference is composed of the following:

- *General Assembly (Articles 6 to 10).* The General Assembly is composed of the ministers in charge of merchant shipping .
- *Permanent General Secretariat (Articles 11 and 12).* This body is the executive branch of the Ministerial Conference.
- Specialized agencies whose statutes are attached to the Statutes of the Conference: Association of National Shipping Lines, Union of National Shippers' Councils, Ports Management Association, and Côte d'Ivoire and Ghana Maritime Training Schools.

The headquarters of the Ministerial Conference is Lagos, Nigeria. The Conference has decided to establish an Association of Maritime Administrations/Merchant Marines whose goals will be to bring together all the maritime administrations to cooperate and develop national and subregional capacities in safety, security, and environmental protection.

The Convention on the Institutionalization of the Ministerial Conference appears in Annex VII-38 of this review.

c. *Association of National Shipping Lines*

**582. Status and objectives.** The Constitution of the Association of National Shipping Lines is attached as Annex A to the Accra Convention and is an integral part of it. The preamble makes explicit reference to the Code of Conduct of Conferences adopted in Geneva on April 7, 1974, and to the need for the Parties to the Accra Convention to create national shipping lines. The objectives of the association are mainly to harmonize and coordinate the activities and

trade policies of the national lines, with a view toward making optimum and economic use of their transport capacity.

583. The institutions of the association are follows:

- *Council*. This body is made up of the top executives of the national shipping lines of the Partner States.
- *Operations Committee*. The committee is made up of the directors of operations of each of the shipping lines members of the association.
- *Permanent Secretariat*.

The Constitution of the Association of National Shipping Lines (Annex A to Charter) appears in **Annex VII-39** of this review.

d. *Union of National Shippers' Councils*<sup>168</sup>

584. The Constitution of the Union of National Shippers' Council is attached as Annex B to the Accra Convention and is an integral part of it. The preamble refers to the 1973 Code of Conduct for Liner Conferences and to the close cooperation required between National Shippers' Councils to strengthen their power of consultation and negotiation with the conferences. The objectives are to reinforce negotiation mechanisms, take measures against unreasonable freight rate increases, rationalize traffic and implement the Code of Conduct<sup>169</sup> (Article 3), promote cooperation policies for the transportation of goods, and reduce the effects of transportation costs on the economies of Member States.

585. The institutions of the Union of National Shippers' Councils are:

- *General Assembly*. The General Assembly is composed of CEOs and Union members. It is responsible for determining the objectives and policy of the Union; examining and approving the program of activities; and drafting the budget and accounts prepared by the General Secretariat.
- *Steering Committee*. The main responsibility of the Steering Committee is to supervise the operations of the General Secretariat. It also carries out the preliminary examination of the draft budget and the accounts.
- *General Secretariat*. The General Secretariat implements the Union policies, drafts the program of activities and implements it after adoption, and prepares the draft budget and implements it after adoption.

- *Auditors.* The Auditors audit and certify the Union's accounts.
- *Permanent or ad hoc committees.* These committees are established by the General Assembly when necessary.

The Constitution of the Union of National Shippers' Councils (Annex B to charter) appears in **Annex VII-40** of this review.

e. *Port Management Association*

**586. Constitution and membership.** The Ports Management Association of West and Central Africa (PMAWCA) is established in October 1972 under the auspices of the Economic Commission for Africa (UNECA) and following a recommendation made at a meeting of the African Ministers in charge of transport, held in Tunisia in February 1971. The PMAWCA Constitution is attached as Annex C to the Accra Convention. It is an agreement between the Heads of port authorities who were represented by the Signatories of the Accra Convention. However, Article 11 of the Constitution states that the signatures of five port authorities are necessary for the Constitution to come into force to establish the Association as a corporate entity in accordance with the statutes of the country in which the Association filed for incorporation (Nigeria). Statutory members of the Association are port authorities. Associate members are port operators from States not within the jurisdiction of the United Nations Economic Commission for Africa (UNECA) or private economic operators from States within the jurisdiction of the UNECA but not providing port services, if port services in these States are government controlled and financed.

Clearly, the spirit of the Constitution is that neither the African nor expatriate port private sector is welcome in the association.

**587. Objectives.** The association seeks to do the following:

- Improve, coordinate, and standardize operations equipment and services.
- Establish relationships with transportation institutions, undertakings, international organizations, and others.
- Provide a forum for members.

**588. Institutions.** The institutions of the association are the following:

- *Council.* The Council is the supreme body of the association. Each member may appoint two representatives.
- *General Secretariat.* The General Secretariat is funded by the annual dues of the States. The Permanent Secretariat has a diplomatic status.
- *Steering Committee.* The Steering Committee is composed of a chair, two vice chairs, a treasurer, and two members.
- *Technical committees.* Examples of the technical committees are Administrative and Legal Affairs, Finance, and Economic.

The Constitution of the Port Management Association of West and Central African States (Annex C to Charter) as appears in **Annex VII-41** of this review.

f. *Training schools*

**589.** The Convention on the Regionalization of the Nungua-Accra and Abidjan National Maritime Institutes (*Académie régionale des sciences et techniques de la mer*, ARSTM) is attached as Annex D to the Accra Convention and is an integral part of it. This regional academy has two schools: the College of Navigation (trains seamen and industrial staff) and the maritime transport college (trains shore staff).

The Convention appears in **Annex VII-42** of this review.