

**Economic Community
Of West African States**



**Communauté Economique
des Etats de l'Afrique de l'Ouest**

**SUPPLEMENTARY PROTOCOL A/SP./12/01
AMENDING THE PROTOCOL ON THE
ESTABLISHMENT OF AN ECOWAS BROWN CARD
RELATING TO MOTOR VEHICLE THIRD
PARTY LIABILITY INSURANCE**

*Executive Secretariat
Dakar, December 2001*

**THE HEADS OF STATE AND GOVERNMENT OF THE MEMBER
STATES OF THE ECONOMIC COMMUNITY OF WEST AFRICAN STATES,**

MINDFUL of Articles 7,8, and 9 of the Treaty establishing the Authority of Heads of State and Government and defining its composition and functions;

MINDFUL of the provisions of Protocol A/P1/5/82 on the establishment of an ECOWAS Brown Card Relating to Motor Vehicle Third Party Liability Insurance;

CONSIDERING the fact that the Brown Card remains one of the most important documents needed for the purpose of crossing with a motor vehicle, the national borders in the ECOWAS region;

CONSIDERING the urgent necessity for the principal as well as the subsidiary participants to assume the discharge of their obligations under the Protocol;

DESIRING to conclude an additional Protocol amending certain provisions of Protocol A/P1/5/82 on the establishment of an ECOWAS Brown Card relating to Motor Vehicle third party liability insurance with a view to improving its effectiveness;

HEREBY AGREE AS FOLLOWS

ARTICLE 1

In this Supplementary Protocol, the following expressions shall have the meanings assigned to them hereunder:

« Treaty » means the Treaty of the Economic Community of West African States adopted in Cotonou on 24th July 1993 as amended.

« Community » means the Economic Community of West African States referred to in Article 2 of the Treaty.

« Member State » or « Member States means a Member State or Member States of the Community as defined in Article 2 of the Treaty.

« Authority » means a member State or Member States of the Community as defined in Article 2 of the Treaty.

« Authority » means the Authority of Heads of State and Government established by Article 7 of the Treaty.

« Protocol » means the Protocol A/P1/5/82 on the establishment of an ECOWAS Brown Card relating to Motor vehicle Third Party Liability Insurance.

« Executive Secretary » means the Executive Secretary appointed in accordance with the provisions of Article 18, of the Treaty.

ARTICLE 2

Certain provisions of Articles 3, 5 and 6 are abrogated or amended and shall read as follows.

ARTICLE 3

New Article 3, paragraph 1 (C)

(C) To ensure that the solvency of the National Bureau is guaranteed by the respective companies authorized by their national laws to underwrite motor vehicles liability;

New Article 3, Paragraph 1 (d)

(d) To ensure that the National Bureau has raised from the subsidiary participants and deposited same at the country's National Bank or a designated Commercial Bank, a letter of credit in the amount equivalent to 174,000 UA to generate the performance by its National Bureau of the obligations under Article 5.

New Article 3, paragraph 2 (c)

(c) To jointly and severally raise and deposit at a Bank or to guarantee the performance by its National Bureau of the Obligations under Article 5 ;

New Article 3, paragraphs 2 (d)

(d) To jointly and severally provide a guarantee in the sum and manner acceptable to the Principal Participant as a security against the solvency of the National Bureau. »

New Article 3, paragraphs 2 (e)

(e) To contribute an amount which shall be fixed by the National Insurance Associations from their respective net motor insurance premium in order to further ensure that the obligations imposed on the National Bureaux are discharged on a sustained basis and for the funding of the Compensation/Security Fund from which technically inadmissible Brown Card Claims shall be paid.

New Article 3, paragraphs 2 (f)

(f) The fund accruing from this contribution shall be managed by a committee including representatives of the National Insurance Association, the Office of the Insurance Supervisor and the National Bureau of each Member State.

ARTICLE 3

Paragraphs (A) & (B) of Article 5 are hereby re-numbered as Paragraphs 6 & 7 respectively. The sub-articles remain unchanged. However, in the French version of the Protocol the Provisions of paragraph 6 shall be merged with those of paragraph 5.

ARTICLE 4

A new paragraph (8) is hereby added to Article 5 which shall read as follows:

- (i) Any claim reported to the issuing bureau shall be examined promptly and unequivocally admitted or repudiated within thirty (30) days of receipt of the report from the Handling Bureau.
- (ii) If the liability is admitted, the claim shall be settled within thirty (30) days of such admission.
- (iii) Thereafter, payment of the amount settled, shall be delivered thirty (30) days of settlement or before the end of the quarter of the year within which settlement has been concluded.
- (iv) The Handling Bureau shall be entitled to raise the interest payable on the amount to 12 percent per annum by notice to the Issuing Bureau after the end of the quarter of the year within which the settlement has been effected up to the end of ninety (90) days or the second quarter of the year within which the settlement has been effected.
- (v) Thereafter, there is a technical default, for which the Issuing Bureau shall pay a penalty of five hundred (500) UA for every month of default.
- (vi) The issuing Bureau shall be entitled to demand payment of the amount due from the guarantee furnished or the letter of credit held at the National Bank through the Council of Bureau which shall notify the Office of the Insurance Supervisor of the aforesaid demand.
- (vii) The office of the Insurance Supervisor shall verify the demand and instruct the National Bank or the Commercial Bank designated, as may be the case, to pay the amount due with the interest, penalty and the handling fee.

ARTICLE 5

New Article 6 paragraph 7

The Council shall appoint the Chairman as stipulated in Article 6 (2) above who shall hold office for one year and be the overall officer responsible for the co-ordination of the activities of the Council.

The Council shall also appoint a committee which shall be known as Executive Committee or Standing Working Committee of not more than five (5) technically capable persons to assist both the Chairman and the Secretary General in the planning, execution and management of the Council's business on a sustained basis.

The members shall serve for three years and may be eligible for re-appointment for another term of three years only.

New Article 6, paragraph 8

The Council shall establish its annual budget and for the sake of equity, fifty percent (50 %) of this annual budget should be shared equally among the fourteen (14) Member National Bureaux and the other fifty percent (50 %) shared according to the size of the insurance market or their turn over.

ARTICLE 6

The principal Participant shall ensure that all relevant national institutions and its correspondent, comply with the provisions and the obligations stipulated in the Protocol on the establishment of the ECOWAS Brown Card Scheme.

ARTICLE 7

Each Member State shall inform the Executive Secretariat of all measures taken for the implementation of Protocol AP/1/5/82 dated 29 May, 1982 on the ECOWAS Brown Card Scheme and this supplementary Protocol.

ARTICLE 8

Any dispute which may arise between Member States regarding the interpretation or application of this Supplementary Protocol shall be settled in conformity with the procedure for the settlement of disputes stipulated in Article 76 of the Treaty.

ARTICLE 9

1. Any party may submit proposals for amendment or revision of this Supplementary Protocol.
2. Any such proposals shall be submitted to the Executive Secretary who shall communicate them to other Member States within (30) thirty days of the receipt of such proposals. The amendments or revisions shall be examined by the Authority at the expiration of the thirty (30) days notice period given to Member States.

ARTICLE 10

1. This Supplementary Protocol shall enter into force provisionally upon signature by the Heads of States and Government of Member States and definitively upon

ratification by at least nine (9) signatory Member States in accordance with the constitutional procedures applicable for each signatory Member State.

2. This Supplementary Protocol and all the instruments of ratification shall be deposited with the Executive Secretariat which shall transmit certified true copies to all Member States and notify them of the dates of deposits of the instruments of ratification and shall register this Supplementary Protocol with the Organisation of Africa Unity, the United Nations Organisation and other Organisations designated by Council.
3. This Supplementary Protocol shall be annexed to and shall be an integral part of the Protocol A/P1/5/82 of 29 May 1982.

**IN FAITH WHERE OF, WE THE HEADS OF STATE AND GOVERNMENTS OF THE
ECONOMIC COMMUNITY OF WEST AFRICAN STATES HAVE SIGNED THIS
SUPPLEMENTARY PROTOCOL.**

**DONE AT DAKAR, THIS 21ST DAY OF DECEMBER 2001 IN SINGLE
ORIGINAL IN THE ENGLISH, FRENCH AND PORTUGUESE LANGUAGES ALL
TEXTS BEING EQUALLY AUTHENTIC**

.....
H.E. Mathieu KEREKOU
President of the Republic of BENIN

.....
H.E. Blaise COMPAORE
President of FASO
Chairman of the Council of Ministers

.....
H.E. Jose Maria Pereira NEVES
Prime Minister and Head of Government
Of the Republic of CAPE VERDE

.....
H.E. Abou Drahmane SANGARE
Minister of Foreign Affairs,
For and on behalf of the President of the
Republic of COTE D'IVOIRE

.....
H. E. Yahya A. J.J. JAMMEY
President of the Republic of the GAMBIA

.....
H.E. John Agyekum KUFOR
President of the Republic of GHANA

.....
H.E. Lamine SIDIME
Prime Minister of the Republic of GUINEA

.....
H.E. Koumba Yala Kobde NHANCA
President of the Republic of
GUINEA BISSAU

.....
H.E. Monie R. CAPTAN
Minister of Foreign Affairs
For and on behalf of the President
Of the Republic of LIBERIA

.....
H.E. Alpha Oumar KONARE
President of the Republic of Mali

.....
H.E. MINDAOUDOU Aïchatou (Mme)
Minister of Foreign Affairs
For and on behalf on the President of
ofThe Republic of NIGER

.....
H.E. Olusegun OBASANJO
President and Commander-in-Chief of the
Armed Forces of the Federal Republic
NIGERIA

.....
H.E. Abdoulaye WADE
President of the Republic of SENEGAL

.....
H.E. Alhaji Dr Ahmad Tejan KABBAH
President of the Republic of SIERRA LEONE

.....
H.E. Gnassingbe EYADEMA
President of the TOGOLESE Republic