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**ECOWAS****Protocol on Democracy and Good Governance****Commenced on 21 December 2001***[Up to date as at 21 December 2001]*

We, the heads of state and government of the member states of the Economic Community of West African States (ECOWAS);

**MINDFUL OF** the ECOWAS Treaty signed in Cotonou on 24 July 1993, notably its Article 58;

**MINDFUL OF** the Protocol relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security signed in Lome on 10 December 1999;

**CONSIDERING** all the issues enumerated or reaffirmed in the preamble to the Protocol of 10 December 1999 referred to above;

**MINDFUL OF** the principles set out in the OAU Solemn Declaration on Security, Stability, Development and Cooperation in Africa adopted in Abuja on 8 and 9 May 2000 and the Decision AHG. DEC 142 (XXV) on the framework for OAU's reaction to unconstitutional change of government, adopted in Algiers in July 1999;

**CONSIDERING** the Harare Declaration adopted by the Commonwealth on 20 October 1991 and the Bamako Declaration adopted by the member countries of the Francophonie on 3 November 2000;

**CONSIDERING** also the Cotonou Declaration adopted on 6 December 2000 at the end of the 4<sup>th</sup> international conference on new or restored democracies;

**RECALLING** that women's rights have been recognised and guaranteed in all international human rights instruments, notably the Universal Declaration of Human Rights, the African Charter on Human and Peoples Rights and the Convention on the Elimination of all forms of Discrimination Against Women;

**MINDFUL** of the ratification of the African Charter on Human and Peoples Rights and other international human rights instruments by the majority of the Member States and their solemn commitment to eliminate all forms of discrimination and harmful practices against women;

**CONCERNED** about the increasing wave of international terrorism;

**CONCERNED** also about the increasing incidence of conflicts caused by religious intolerance, political marginalisation and non-transparent elections;

**HAVING OBSERVED** that to become really effective, the Protocol of 10 December 1999 needs to be complemented through the incorporation of provisions concerning issues such as prevention of internal crises, democracy and good governance, the rule of law, and human rights;

**HAVING DECIDED** to enhance the ECOWAS Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security;

**HAVE AGREED AS FOLLOWS:**

**Definitions**

The terms and expressions used in the present Supplementary Protocol have the same meanings as those used in the Protocol of 10<sup>th</sup> December 1999.

The list of definitions is completed as follows:

"Treaty" means the Revised Treaty of the Economic Community of West African States (ECOWAS) signed in Cotonou on 24 July 1993;

"Protocol" means the Protocol relating to the Mechanism for Conflict Prevention, Management, Resolution,

Peacekeeping and Security, signed in Lome on 10<sup>th</sup> December 1999;

“Supplementary Protocol” means the Protocol on Democracy and Good Governance Supplementary to the Protocol relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security;

“Community” means the Economic Community of West African States referred to under Article 2 of the Treaty;

“Member State” or “Member States” means a Member State or Member States of the Community as defined in paragraph 2 of Article 2 of the Treaty;

“Community citizen or citizens” means any national (s) of Member States who satisfy the conditions stipulated in the Protocol defining Community citizenship;

“Court of Justice” means the Court of Justice of the Community established under Article 15 of the Treaty;

“Authority” means the Authority of Heads of State and Government of the Economic Community of West African States established by Article 7 of the Treaty;

“Mediation and Security Council” means the Mediation and Security Council as defined by Article 8 of the Protocol;

“Defence and Security Commission” means the Defence and Security Commission as defined in Article 18 of the Protocol;

“Executive Secretary” means the ECOWAS Executive Secretary appointed in accordance with Article 18 of the Treaty;

“Executive Secretariat” means the Executive Secretariat established under Article 17 of the Treaty;

“Deputy Executive Secretary” means the Deputy Executive Secretary in charge of Political Affairs, Defence and Security as referred to in Article 16 of the Protocol;

“ECOMOG” means the ECOWAS Cease-fire Monitoring Group, which constitutes the Community’s intervention force as defined in Article 21 of the Protocol relating to the Mechanism etc;

“Armed Forces” includes the army, Airforce, Navy, and Gendarmerie;

“Security Forces” the Police, Gendarmerie, National Guards and other Forces assigned with security.

## **Chapter 1 Principles**

The provisions of this chapter complement and clarify the principles set out in Article 2 of the Protocol of 10 December 1999.

### **Section I: Constitutional convergence principles**

#### **Article 1**

The following shall be declared as constitutional principles shared by all Member States:

- a) - Separation of powers - the Executive, Legislative and Judiciary.
  - Empowerment and strengthening of parliaments and guarantee of parliamentary immunity.
  - Independence of the Judiciary: Judges shall be independent in the discharge of their duties.
  - The freedom of the members of the Bar shall be guaranteed; without prejudice to their penal or disciplinary responsibility in the event of contempt of court or breaches of the common law.
- b) Every accession to power must be made through free, fair and transparent elections.
- c) Zero tolerance for power obtained or maintained by unconstitutional means.

- d) Popular participation in decision-making, strict adherence to democratic principles and decentralisation of power at all levels of governance.
- e) The armed forces must be apolitical and must be under the command of a legally constituted political authority; no serving member of the armed forces may seek to run for elective political.
- f) Secularism and neutrality of the State in all matters relating to religion; freedom for each individual to practise, within the limits of existing laws, the religion of his/her choice everywhere on the national territory. The secularism shall extend to all parts of the State, but shall not deprive the State of the right to regulate, with due respect to human rights, the different religions practised on the national territory or to intervene when law and order break down as a result of any religious activity.
- g) The State and all its institutions belong to all the citizens; therefore none of their decisions and actions shall involve any form of discrimination, be it on an ethnic, racial, religion or regional basis.
- h) The rights set out in the African Charter on Human and People's Rights and other international instruments shall be guaranteed in each of the ECOWAS Member States; each individual or organisation shall be free to have recourse to the common or civil law courts, a court of special jurisdiction, or any other national institution established within the framework of an international instrument on Human Rights, to ensure the protection of his/her rights.

In the absence of a court of special jurisdiction, the present Supplementary Protocol shall be regarded as giving the necessary powers to common or civil law judicial bodies.

- i) Political parties shall be formed and shall have the right to carry out their activities freely, within the limits of the law.

Their formation and activities shall not be based on ethnic, religious, regional or racial considerations. They shall participate freely and without hindrance or discrimination in any electoral process. The freedom of the opposition shall be guaranteed.

Each Member State may adopt a system for financing political parties, in accordance with criteria set under the law.

- j) The freedom of association and the right to meet and organise peaceful demonstrations shall also be guaranteed.
- k) The freedom of the press shall be guaranteed.
- l) All former Heads of State shall enjoy a special status including freedom of movement. They shall enjoy special benefits compatible to their status as former Heads of State.

## **Section II: Elections**

### **Article 2**

1. No substantial modification shall be made to the electoral laws in the last six (6) months before the elections, except with the consent of a majority of Political actors.
2. All the elections shall be organised on the dates or at periods fixed by the Constitution or the electoral laws.
3. Member States shall take all appropriate measures to ensure that women have equal rights with men to vote and be voted for in elections, to participate in the formulation of government policies and the implementation thereof and to hold public offices and perform public functions at all levels of governance.

### **Article 3**

The bodies responsible for organising the elections shall be independent or neutral and shall have the confidence of all the political actors. Where necessary, appropriate national consultations shall be organised to determine

the nature and the structure of the bodies.

#### **Article 4**

1. Each ECOWAS Member State shall ensure the establishment of a reliable registry of births and deaths. A central registry shall be established in each Member State.
2. Member States shall cooperate in this area with a view to exchanging experiences and where necessary providing technical assistance to each other in the production of reliable voters' lists.

#### **Article 5**

The voters' lists shall be prepared in a transparent and reliable manner, with the collaboration of the political parties and voters who may have access to them whenever the need arises.

#### **Article 6**

The preparation and conduct of elections and the announcement of results shall be done in a transparent manner.

#### **Article 7**

Adequate arrangements shall be made to hear and dispose of all petitions relating to the conduct of elections and announcement of results.

#### **Article 8**

Member States shall use the services of civil society organisations involved in electoral matters to educate and enlighten the public on the need for peaceful elections devoid of all acts of violence.

#### **Article 9**

The party and/or candidate who loses the elections shall concede defeat to the political party and/or candidate finally declared the winner, following the guidelines and within the deadline stipulated by the law.

#### **Article 10**

All holders of power at all levels shall refrain from acts of intimidation or harassment against defeated candidates or their supporters.

### **Section III: Election monitoring and ECOWAS assistance**

#### **Article 11**

The provisions of Article 42 of the Protocol of 10th December 1999 are hereby complemented by the provisions under this section.

#### **Article 12**

1. At the request of any Member State, ECOWAS may provide assistance in the conduct of any election.
2. Such assistance may take any form.
3. Also, ECOWAS may dispatch a monitoring team to the country concerned for the purpose of monitoring the elections.
4. The decision in this respect shall be taken by the Executive Secretary.

### Article 13

1. As elections in a Member State approach, the Executive Secretary shall dispatch a fact-finding Mission to the Member State conducting an election.
2. This mission may be followed by an exploratory Mission aimed at:
  - collecting all texts governing the elections concerned;
  - gathering all information on the conditions under which the elections shall be conducted;
  - collecting all pertinent information relating to the contesting candidates or political parties;
  - meeting all candidates, political party leaders, government authorities and other competent bodies;
  - assessing the status of preparations for the elections;
  - gathering any other useful information that may provide a clear picture of the situation.

### Article 14

1. The Executive Secretary shall appoint the leader and the members of the Observer/Supervisory Mission, who shall be independent persons and nationals of Member States other than the Member State conducting the elections.
2. The Members of the Mission shall include women.
3. Staff of the Executive Secretariat shall be designated to assist the Mission.

### Article 15

1. The Observer/Supervisory Mission, with the documents collected by the exploratory Mission and the report prepared by the Mission, shall arrive in the Member State concerned at least forty-eight hours prior to the conduct of the elections.
2. The Observer/Supervisory Mission may be preceded by ECOWAS Staff, who shall prepare the meetings to be held between the Mission and the national authorities.
3. The Mission shall be expected to hold consultations with the relevant authorities of the host government for an exchange of views and in order to determine the mode of deployment in the host Member State.
4. It may establish co-operation links with NGO or any other observer teams while maintaining its autonomy.
5. The members of the Mission shall show restraint and refrain from making any individual statement. Any statement shall be made collectively and on behalf of the Mission by the team leader or a spokesperson appointed for this purpose.

### Article 16

1. The Mission shall remain in the country throughout the election period and until the election results are announced.
2. The Mission shall also submit a report to the Executive Secretary.
3. The Report shall comprise:
  - the Mission's own observations;
  - statements by witnesses;
  - its assessment of the conduct of the elections from the point of view of the national laws governing

the elections and the universal principles in electoral matters;

- its recommendations for the improvement of the conduct of future elections and monitoring Missions.

### **Article 17**

1. The Observer/Supervisory Mission's report shall be signed by all Members of the Mission and submitted to the Executive Secretary by the Mission's leader within fifteen (15) days with effect from the date of accomplishment of the Mission.
2. Before leaving the host country, the Mission shall convene a consultative meeting for the preparation of the report.
3. Any member of the Mission, who is unable to attend the meeting, shall submit a report in writing to the Mission's leader before leaving the country.
4. ECOWAS Staff shall assist the Mission in the preparation of the report.

### **Article 18**

The report shall be forwarded by the Executive Secretary, together with his own observations, if necessary, to the Mediation and Security Council for recommendations to be made to the country concerned and/or to all Member States, and for measures to be taken, where necessary.

## **Section IV: The role of the armed forces, the police and the security forces in a democracy**

### **Article 19**

1. The armed forces and police shall be non-partisan and shall remain loyal to the nation. The role of the armed forces shall be to defend the independence and the territorial integrity of the State and its democratic institutions.
2. The police and other security agencies shall be responsible for the maintenance of law and order and the protection of persons and their properties.
3. The armed forces, the police and other security agencies shall participate in ECOMOG missions as provided for in Article 28 of the Protocol.
4. They may also, on the decision of the constitutionally constituted authorities, participate in peacekeeping missions under the auspices of the African Union or the United Nations.
5. Members of the armed forces may be drafted to participate in national development projects.

### **Article 20**

1. The armed forces, the police and other security agencies shall be under the authority of legally constituted civilian authorities.
2. The civilian authorities shall respect the apolitical nature of the armed forces and police. All political or trade union activities and propaganda shall be forbidden in the barracks and within the armed forces.

### **Article 21**

The armed and security forces personnel as citizens, shall be entitled to all the rights set out in the constitution, except as may be stated otherwise in their special regulations.

### **Article 22**



1. The use of arms to disperse non-violent meetings or demonstrations shall be forbidden. Whenever a demonstration becomes violent, only the use of minimal and/or proportionate force shall be authorised.
2. All cruel, inhuman and degrading treatment shall be forbidden.
3. The security forces, while carrying out investigations, shall not disturb or arrest family members or relations of the person presumed guilty or suspected of having committed an offence.

### **Article 23**

1. The armed forces, the police and other security agencies shall during their training receive instructions on the Constitution of their country, ECOWAS principles and regulations, human rights, humanitarian law and democratic principles. In this regard, seminars and meetings bringing together members of the armed forces, Police and other Security Agencies and other sectors of society shall be organised from time to time.
2. Joint training sessions shall also be arranged for members of the armed forces from different ECOWAS countries, the police, other security forces, university dons and members of the civil society.

### **Article 24**

1. The Member States undertake to strengthen their national agencies responsible for preventing and combating terrorism.
2. In accordance with Articles 3 (d) and 16 (1) of the Protocol, the Department of Political Affairs, Defence and Security of the Executive Secretariat shall initiate joint activities for the national agencies of Member States in charge of preventing and combating terrorism.

## **Section V: Poverty alleviation and promotion of social dialogue**

### **Article 25**

Member States agree that poverty alleviation and promotion of social dialogue are important factors for peace.

### **Article 26**

Member States undertake to provide the basic human needs of their populations.

### **Article 27**

Member States undertake to fight poverty effectively in their respective countries and within the Community, especially by:

- creating an environment conducive to private investment and the development of a dynamic and competitive private sector;
- providing the instruments necessary for the enhancement of job creation and for the development of the social sector as a matter of priority;
- ensuring equitable distribution of resources and income in order to consolidate national unity and solidarity;
- enhancing the integration of economic, financial and banking activities through harmonisation of commercial and financial laws and establishment of Community multi-national corporations.

### **Article 28**

1. Employers associations and trade unions shall be organised and/or strengthened in each Member State and at the regional level of ECOWAS.

2. Member States shall promote social dialogue. In this regard, employers associations and workers unions shall meet regularly among themselves and with political and administrative authorities with a view to preventing social conflict.
3. There shall be associations of farmers, artisans and artists in each Member State and at the sub-regional level of ECOWAS.

## **Section VI: Education, culture and religion**

### **Article 29**

Education, culture and religion are essential factors for peace, stability and development in each Member State.

### **Article 30**

1. There shall be regular exchanges of students and academics between Member States.
2. Community institutions shall be established to provide training for students from the sub-region.
3.
  - In accordance with Article 36 of the Protocol, the Executive Secretariat shall, from now on, provide budgetary allocations for immediate funding of the programmes as contained in this Article.
  - Each Member State shall in the shortest possible time also make a contribution for the take-off and implementation of the programmes contained in this Article;
  - A percentage of the Community levy shall be allocated for the establishment of a fund for the implementation of the activities outlined in this Article;
4. A policy to promote women's education at all levels and in all fields of training shall be adopted and implemented in each Member State and at the level of ECOWAS.
5. Member States shall guarantee women equal rights with men in the field of education and in particular, shall ensure the same conditions for career and vocational guidance, access to the same curricula, access to opportunities to benefit from scholarships and other study grants. They shall also ensure the elimination of stereotyped concepts of roles of men and women at all levels and in all forms of education.

### **Article 31**

1. The culture of every group of people in each Member State shall be respected and developed.
2. The Executive Secretary shall take the necessary measures to organise, within the sub-region, periodic inter-state cultural events: festivals of arts and culture, symposia, various cultural events on literature, music, arts, and sports.
3. Member States undertake to take measures to eliminate or prevent religious conflicts and to promote religious tolerance and harmony. To this end, permanent structures for consultations among the different religions on the one hand and between the different religions and the State on the other hand, shall be established at national levels.
4. The Executive Secretary shall take the necessary measures to promote, through periodic meetings, consultations among the religious organisations of Member States.

## **Section VII: Rule of law, human rights and good governance**

### **Article 32**

Member States agree that good governance and press freedom are essential for preserving social Justice, preventing conflict, guaranteeing political stability and peace and for strengthening democracy.

### **Article 33**

1. Member States recognise that the rule of law involves not only the promulgation of good laws that are in conformity with the provisions on human rights, but also a good judicial system, a good system of administration, and good management of the State apparatus.
2. They are also convinced that a system that guarantees the smooth running of the State and its administrative and judicial services, contributes to the consolidation of the rule of law.

### **Article 34**

1. Member States and the Executive Secretariat shall endeavour to adopt at national and regional levels, practical modalities for the enforcement of the rule of law, human rights, justice and good governance.
2. Member States shall ensure accountability, professionalism, transparency and expertise in the public and private sectors.

### **Article 35**

1. Member States shall establish independent national institutions to promote and protect human rights.
2. The Executive Secretariat shall take measures to strengthen their capacities. The institutions shall be organised into a regional network.

Within the framework of this network, each national institution shall systematically submit to the Executive Secretariat, any report on human rights violations observed on its territory.

Such reports and reactions of governments shall be widely disseminated through the most appropriate means.

### **Article 36**

Member States shall institutionalise a national mediation system.

### **Article 37**

1. Each Member State shall work towards ensuring pluralism of the information sector and the development of the media.
2. Each Member State may give financial assistance to privately-owned media. The distribution and allocation of such assistance shall be done by an independent national body or by a body freely instituted by the journalists themselves.

### **Article 38**

1. Member States undertake to fight corruption and manage their national resources in a transparent manner, ensuring that they are equitably distributed.
2. In this regard, Member States and the Executive Secretariat undertake to establish appropriate mechanisms to address issues of corruption within the Member States and at the Community level.

### **Article 39**

Protocol A/P.1/7/91 adopted in Abuja on 6 July 1991 relating to the Community Court of Justice, shall be reviewed so as to give the Court the power to hear, inter-alia, cases relating to violations of human rights, after all attempts to resolve the matter at the national level have failed.

## **Section VII: Women, children and the youth**

### **Article 40**

Member States agree that the development and promotion of the welfare of women are essential factors for development, progress and peace in the society. Consequently, they undertake to eliminate all forms of discrimination and harmful and degrading practices against women.

### **Article 41**

1. Member States shall guarantee children's rights and give them access to basic education.
2. Special laws shall be enacted in each Member State and at the level of the Community against child trafficking and child prostitution.
3. The Community shall adopt laws and regulations on Child Labour in line with the provisions of the International Labour Organisation (ILO).

### **Article 42**

1. Member States shall agree on rules to be adopted on the training and development of the youth.
2. Uniform laws shall be adopted within the Community to prevent and handle cases of juvenile delinquency.

### **Article 43**

The Executive Secretariat shall put in place all necessary structures within its establishment to ensure the effective implementation of common policies and programmes relating to the education and the promotion of the welfare of women and youth.

## **Chapter II**

### **Modalities for implementation and sanctions**

#### **Article 44**

1. This Article complements the provisions of Chapter V of the Protocol of 10<sup>th</sup> December 1999.
2. In order to give full force to the provision of Article 28 of this Supplementary Protocol and in accordance with Article 57 of the Treaty, a legal convention incorporating, if need be, Convention A/P.1/7/92 relating to mutual assistance in criminal matters, and the Convention A/P1/8/94 on Extradition shall be elaborated and adopted not later than twelve months after the entry into force of this Supplementary Protocol.

#### **Article 45**

1. In the event that democracy is abruptly brought to an end by any means or where there is massive violation of Human Rights in a Member State, ECOWAS may impose sanctions on the State concerned.
2. The sanctions which shall be decided by the Authority may take the following forms, in increasing order of severity:
  - Refusal to support the candidates presented by the Member State concerned for elective posts in international organisations;
  - Refusal to organise ECOWAS meetings in the Member State concerned;
  - Suspension of the Member State concerned from all ECOWAS decisionmaking bodies. During the period of the suspension the Member State concerned shall be obliged to pay its dues for the period.
3. During the period of suspension, ECOWAS shall continue to monitor, encourage and support the efforts being made by the suspended Member State to return to normalcy and constitutional order;
4. On the recommendation of the Mediation and Security Council, a decision may be taken at the appropriate time to proceed as stipulated in Article 45 of the Protocol of 10<sup>th</sup> December 1999.

## **Chapter III General and final provisions**

### **Article 46**

This Supplementary Protocol shall form an integral part of the Protocol Relating to the Mechanism for Conflict Prevention, Management, Resolution, Peacekeeping and Security, signed in Lome on 10 December 1999.

### **Article 47 Amendments**

1. Any Member State may submit proposals for the amendment or revision of this Supplementary Protocol.
2. Any such proposals shall be submitted to the Executive Secretary who shall notify other Member States not later than thirty days after the receipt of such proposals. Amendments or revisions shall not be considered by the Authority unless Member States shall have been given at least one month's notice thereof.
3. Amendments or revisions shall be adopted by the Authority.

### **Article 48 Withdrawal**

1. Any Member State wishing to withdraw from this Supplementary Protocol shall give a one-year written notice to the Executive Secretary who shall inform Member States thereof. At the end of this period of one year, if such notice is not withdrawn, such a State shall cease to be a party to this Supplementary Protocol.
2. During the period of one year referred to in the preceding paragraph, such a Member State shall nevertheless continue to observe the provisions of this Supplementary Protocol and discharge its obligations thereunder.

### **Article 49 Entry into Force**

This Supplementary Protocol shall enter into force upon ratification by a least nine (9) signatory States in accordance with the constitutional procedures of each Member State.

### **Article 50 Depositary Authority**

This Supplementary Protocol and all 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 deposit of instruments of ratification by the Member States and shall register it with the Organisation of African Unity (OAU)/African Union (AU), as well as the United Nations (UN) and any other organisation as may be decided by the Council.

In faith whereof we, the heads of state and government of the member states of the Economic Community of West African States (ECOWAS) have signed this Supplementary Protocol in single original in the English, French and Portuguese languages, all texts being equally authentic

Done at Dakar on this 21<sup>st</sup> day of December 2001

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**H. E. Mathieu KEREKOU**

President of the Republic of BENIN

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**H. E Blaise COMPAORE**

President of FASO Chairman of the Council of Ministers

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**H. E. Jose Maria Pereira NEVES**

Prime Minister and Head of Government of the Republic of CAPE VERDE

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**H. E. Abou Drahamane SANGARE**

Minister of Foreign Affairs,

For and on behalf of the President of the Republic of CÔTE D'IVOIRE

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**H. E. Yahya A. J. J. JAMMEH**

President of the Republic of The GAMBIA

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**H. E. John Agyekum KUFUOR**

President of the Republic of GHANA

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**H. E. Lamine SIDIME**

Prime Minister of the Republic of GUINEA

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**H. E. Koumba Yala Kobde NHANCA**

President of the Republic of GUINEA BISSAU

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**H. E. Monie R. CAPTAN**

Minister of Foreign Affairs For and on behalf of the President of the Republic of LIBERIA

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**H. E. Alpha Oumar KONARE**

President of the Republic of MALI

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**H. E. MINDAOUDOU Aïchatou (Mme)**

Minister of Foreign Affairs For and on behalf of the President of Republic of NIGER

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**H. E. Olusegun OBASANJO**

President and Commander-in-Chief of the Armed Forces of the Federal Republic of NIGERIA

**H. E. Abdoulaye WADE**

President of the Republic of SENEGAL

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**H. E. Alhaji Dr Ahmad Tejan KABBAH**

President of the Republic of SIERRA LEONE

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**H. E. Gnassingbé EYADEMA**

President of the TOGOLESE Republic