

ECONOMIC COMMUNITY OF
WEST AFRICAN STATES



COMMUNAUTE ECONOMIQUE DES
ETATS DE L'AFRIQUE DE L'OUEST

**Sixty-second Ordinary Session
of the Council of Ministers**

ABUJA, 26 - 27 MAY 2009

**DIRECTIVE C/DIR.2/05/09 ON THE HARMONIZATION OF THE ECOWAS
MEMBER STATES' LEGISLATIONS ON EXCISE DUTIES**

THE COUNCIL OF MINISTERS,

MINDFUL of Articles 10, 11 and 12 of the ECOWAS Treaty as amended establishing the Council of Ministers and defining its composition and functions;

MINDFUL of Article 3 of the said ECOWAS Treaty stipulating the areas in which the Community shall deploy actions, to achieve its goals and objectives;

MINDFUL of Articles, 35, 37 and 40 of the ECOWAS Treaty on liberalisation of trade, the Common External Tariff, Customs Duties and Internal Taxation.

CONSIDERING that the harmonization of the tax legislations of the Member States is a necessity for the attainment of the objectives of the Treaty, particularly the realization of a Common Market.

CONSIDERING that this harmonization of tax legislations will contribute to establishing coherence in the domestic systems of taxation, ensuring equal treatment for trade operators within the Community and enhancing the output of the different taxes;

AWARE of the need to harmonize the systems in force in the non-UEMOA Member States with the UEMOA harmonized system so as to safeguard the attainment of the aforementioned objectives.

CONVINCED that it is also in the Community's interest to achieve the convergence of the Excise duty systems (specific taxes) applied to products and facilitate the movement of the products between the Member States;

DESIROUS, in that regard, of limiting the number of products liable for excise duty and drawing up a list of those products;

UPON THE RECOMMENDATION of the Trade, Customs, Free Movement Technical Committee meeting held 15 – 18 April 2009.

PRESCRIBES AS FOLLOWS:

CHAPTER I: DEFINITION AND SUBJECT

SECTION I: DEFINITIONS

ARTICLE 1:

For the purpose of this Directive, the following meanings shall apply:

"Treaty", the Revised Treaty of the Economic Community of West African States signed in Cotonou on the 24th July 1993 and all its subsequent amendments;

"Union or UEMOA", the West African Economic and Monetary Union;

"Community", the Economic Community of West African States whose establishment is reaffirmed by Article 2 of the Treaty;

"Member State or Member States", Member State or Member States of the Economic Community of West African States;

"Council", the Council of Ministers set up by Article 10 of the Treaty of the Economic Community of West African States;

"Commission" Commission of ECOWAS established by Article 17 of Supplementary Protocol A/SP.1/06/06

"President of the Commission", the President of the Commission of the Economic Community of West African States provided for under Article 19 of the Supplementary Protocol A/SP.1/06/06;

"Tax Authority", the Structure, Institution or Organization responsible in each Member State for the administrative management of Excise duties.



SECTION II : SUBJECT

ARTICLE 2:

The objective of this Directive is to harmonize the legislations of ECOWAS Member States on excise duties

CHAPTER II: SCOPE OF APPLICATION

ARTICLE 3:

1. Member States shall submit the following categories of products to excise duties:
 - a) alcoholic beverages
 - b) non-alcoholic beverages, excluding water;
 - c) tobaccos and cigarettes;
2. Member States shall have the power to also submit a maximum of eight (8) selected products to excise duty among those featuring on the Community's list referred to in article 4 below.

ARTICLE 4:

Besides the products referred to in article 3 above, the Community's list of products liable to excise duties shall comprise:

- a) coffee;
- b) cola;
- c) Wheat flour;
- d) oils and fatty food substances;
- e) perfumery and cosmetic products;
- f) tea;
- g) arms and ammunitions;
- h) Precious stones and metals.
- i) New vehicles;
- j) Second hand vehicles;
- k) Caviar (fish eggs);
- l) leather and skin ;
- m) recreational boats;
- n) Works of Art;
- o) Plastic bags;



- p) Marbles;
- q) Monosodium glutamate.

ARTICLE 5:

Excise duties shall apply to locally manufactured products and to imported products, on first sale or release for consumption.

ARTICLE 6:

With the exception of the duties applicable to petroleum products whose harmonization will be subjected to a specific directive, the excise duties shall be fixed according to the conditions and procedures defined by the Member States, subject to compliance with the provisions of Article 7 of this Directive and those that follow.

CHAPTER III: **TAXABLE EVENT AND TAX LIABILITY**

SECTION I: **TAXABLE EVENT**

ARTICLE 7:

1. The taxable event of excise duty is constituted by the delivery of goods and commodities in the case of sales or through the introduction of goods and commodities onto the customs territory, in the case of imports.
2. With the exception of the above, the taxable event is constituted by the first use in the case of locally manufactured products.

SECTION II: **TAX LIABILITY**

ARTICLE 8:

1. Liability of excise duties shall be constituted by the right of each Member State's recovery agencies to demand payment, on a given date, from the debtor.
2. Excise duties shall be liable in some conditions to be determined by each Member State.
3. For locally manufactured products, liability shall arise when the taxable event occurs, and for imports, at the time of registering the declaration of release for consumption.

CHAPTER IV: TAXABLE AMOUNT AND RATE OF TAXATION

SECTION I: TAXABLE AMOUNT

ARTICLE 9:

The taxable amount of excise duties shall be constituted:

- a) on import, by the customs value increased by import duties and taxes, with the exception of VAT;
- b) For local manufactured product, by the ex-factory selling price, with the exclusion of VAT.

SECTION II: RATE OF TAXATION

ARTICLE 10:

1. The rate applicable under the excise duty shall be freely decided by each Member State within a bracket from 1 to 150 % and in conformity with the minimum and maximum rates decided by category of products as listed in Article 11 below;
2. The rate of taxation adopted by the Member States shall be identical for the products in question, whether locally manufactured or imported.

ARTICLE 11:

The Community limits with regard to the determination of the rates of taxation applicable to products shall be fixed as follows:



Taxable products	Minimum rate	Maximum rate
1. Beverages:		
▪ Non alcoholic beverages excluding water	1%	10 %
▪ Alcoholic beverages	10 %	45 %
2. Tobaccos and cigarettes	15 %	100 %
3. Coffee	1 %	30 %
4. Cola	5%	30 %
5. wheat flour	1 %	20 %
6. Oils and fatty substances	1 %	15 %
7. Tea	1 %	30 %
8. Arms and ammunitions	20 %	50 %
9. Perfumery and cosmetic products	5 %	40 %
10. Precious stones and metals	3%	50%
11. Second-hand vehicles	5%	150%
12 New Vehicles	1%	25%
13. Caviars	1%	10%
14. Leather and skin	1%	10%
15. recreational Boats	1%	10%
16. Works art	1%	10%
17. Plastic bags	1%	10%
18. Marbles	5%	15%
19. Monosodium glutamate	5%	30%

CHAPTER V: FINAL AND TRANSITIONAL PROVISIONS

SECTION II: TRANSITIONAL PROVISIONS

ARTICLE 12:

1. In order to ensure effective implementation of the Directive by all the Member States, a transitional period shall be from 1 January 2010 for a period of three (03) years.
2. During this period, the situation will be resolved on the adoption of a harmonized framework of the products in the field of excise duties.

SECTION II: FINAL PROVISIONS

ARTICLE 13:

This Directive will be published by the ECOWAS Commission in the Official Journal of the Community within thirty (30) days from the date of its signing by the Chairman of the Council of Ministers. It will also be published by each Member State in its National Gazette within the same period, after notification by the Commission.

ARTICLE 14:

1. Member States shall adopt the laws, regulations and administrative provisions necessary to comply with this Directive no later than 1 January 2013.
2. When Member States adopt the measures referred to in paragraph 1 of this article, they shall contain a reference to this Directive or be accompanied by such reference on the occasion of their official publication.
3. Member States shall communicate to the ECOWAS Commission actions or measures they adopt to comply with this Directive.



4. Member States shall notify the difficulties encountered in implementing this Directive to the President of the Commission who shall report to the next session of the Council of Ministers, which, in turn shall take appropriate measures to ensure the implementation of this Directive.

DONE AT ABUJA, THIS 27TH DAY OF MAY 2009

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H. E. Chief Ojo MADUEKWE (CFR)

The Chairman

For Council