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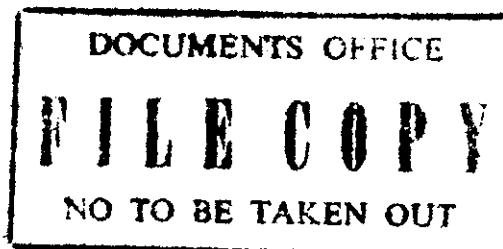
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Addendum

THE WEST AFRICAN CUSTOMS UNION (WACU)

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In June 1959, seven West African countries (the Ivory Coast, Dahomey, the Upper Volta, Mali, Mauritania, the Niger and Senegal) signed a Customs union agreement in Paris. This act merely confirmed the status quo established by the French government and reinforced by a monetary union agreement. Agreements on economic and monetary co-operation with France were also to strengthen a situation characterized by continuity with the past. However, the advent of independence was soon to raise problems of budgetary revenue, Customs administration, necessary development, economic protection and African national policies, with which the inadequate provisions of 1959 and the restrictions that they imposed were incompatible. While maintaining the economic and monetary ties with France established since independence and their new commitments as states associated with the European Economic Community, the same states signed a new agreement at Abidjan on 3 June 1966 superseding the one signed in 1959. This new political act is both a denunciation of the inefficient system which had regulated trade between member States and a manifestation of determination to develop trade within a pre-existing framework providing for the establishment of a common external tariff.

The new West African Customs Union agreement came into effect officially on 15 December 1966, but did not become enforceable until dates between 1 March 1967 and 30 June 1967, according to the State in question, pursuant to circulars issued in an effort to make its implementation compatible with the fiscal legislation and existing agreements of the different countries.

The WACU convention comprises mainly brief provisions on:

The preferential fiscal system to be applied to trade between member States;

The definition of a common external tariff, to be studied;

The establishment of the organs of the Union.

I. THE PREFERENTIAL FISCAL SYSTEM

Within a Customs union, the new reciprocal concessions could apply only to fiscal duties. This is exactly what happened in the 1959 organization. Article 6(1) of the 1966 convention states that "products originating in WACU countries and brought into member States shall be subject to fiscal taxation, of whatever form, the total of which shall be equal to 50 per cent of the aggregate of the most favourable taxation applicable to similar imported products. The phrase "of whatever form" is a reference to the often divergent fiscal duties applied on importation into the various countries of the Union, which are, or will be, clarified in the implementing decrees and circulars that have already appeared or are to be issued.

The protection of the industries of member States is dealt with by a special provision of article 6(3): "whenever a similar industry is set up in another member State, that State shall be authorized by the Council of Ministers of WACU to raise the fiscal duties defined above to 70 per cent of the total rate provided for in the first paragraph of the present article".

No compensation has apparently been arranged for land-locked States. Nevertheless, the provisions pertaining to assessment at 50 or 70 per cent of total fiscal duties "shall not be applicable to arrangements existing on the date when the new Convention comes into effect, in trade relations established between certain member States" (article 6(4)) and the new circulars issued by these various States recapitulate the procedure applied in such relations. However, it is well known that States like the Niger and the Upper Volta wished to go further and work towards economic union, such as that existing in UDEAC..

Although traffic within WACU in products originating within the Customs Union is not subject to any restrictions (article 7(1)), a member State may impose quantitative restrictions, provided that the Council of Ministers of the Union is immediately informed of it.

The purpose of these restrictions is "to remedy any imbalances in the economy" (article 7(a). These safety provisions and the procedure for invoking them seem to be both vague, as manifestations of imbalance are not defined, and fairly serious, as the Council of Ministers, on being informed, may take decisions concerning them.

"Products harvested, extracted from the soil or manufactured within a member State shall be considered as originating in the Union. Operations of simple processing or operations intended to preserve merchandise imported from third countries or keep it in good condition shall not be considered as manufacturing" (article 5). However, "complete articles produced in a member State merely by assembling parts imported from third countries shall benefit from the special fiscal duties only within the limits of a quota set up by mutual agreement between the two member States concerned". (Article 6(2)).

As to re-exportation, it is stipulated in article 8 that "products originating in third countries, not consumed in a member State and sent to another State, shall be subject to all entry duties and taxes applicable to them by virtue of their origin".

"The said products shall be admitted into the State of consignment only on presentation of a Customs document certifying that the duties and taxes paid in the member State will be repaid to the consignor. This document must be accompanied, unless exceptions are granted by the State of consignment, by an invoice showing directly the amount of duties and taxes previously paid in the member State reconsigning the goods. Any other system of repayment shall be left to the discretion of the member States concerned".

In this connexion, a decision of the Committee of the Customs union (Decision No.24 UD66) specifies that "for products originating in third countries and not consumed in a member State but sent to another State, the duties and taxes collected on entry, to be repaid to the consignor by the State of origin shall be as follows:

- Customs duties;
- Fiscal duty;
- Statistical tax;
- Standard tax, representing the tax on transactions;
- turnover tax or any taxes of equivalent effect, repayment of which is provided for by the legislation or regulations of the State, excluding the other taxes, in particular domestic consumer taxes".

The WACU Convention does not mention export duties and taxes on original products consigned to a member State.

Most of the member States have already intimated the conditions and procedure for implementing the preferential fiscal system established by the WACU Convention. The action taken by the various States to implement this includes adaptations of the principles of the Convention to the national taxation systems, which sometimes undergo considerable changes thereby.

The relations of Senegal with Dahomey, the Upper Volta, Mali and the Niger

In circular No. 1,967, dated 24 April 1967 and issued by the Directorate of Customs, the Republic of Senegal defined the new fiscal system for trade with Dahomey, the Upper Volta, Mali and the Niger, taking as a basis the taxation applied to products imported from the European Economic Community.

In accordance with article 5 of the WACU Convention, products manufactured from foreign raw materials, agricultural products and products obtained from the latter are subject to fiscal taxation at an amount equal to 50 per cent of the most favourable taxation, i.e. that applicable to similar products imported from the EEC, namely:

Exemption from Customs duty;

Liability to 50 per cent of the total of the fiscal duty, the statistical tax, and the standard tax;

Liability at the full rates (without application of the 50 per cent reduction) to the turnover tax and domestic taxes.

Examples

- (a) The importation of 1,000 litres of lemonade originating in the Niger (value 10,000 francs)

	EEC			Niger		
Fiscal duty	:	10,000 x 15%	= 1,500	1500	:	2 : 750
Statistical tax	:	10,000 x 3%	= 300	300	:	2 : 150
Standard tax	:	11,800 x 30.90%	= 3,646	3646	x 2	: 1,823
						2,723
Turnover tax	:	(10,000+2,723) x 13.5%				: 1,718
Domestic tax	:	1000 x 1				: 1,000
Total of duties and taxes payable						: 5,441

- b) The importation of crude palm oil originating in Dahomey
(value 20,000 francs)

EEC		Dahomey	
Fiscal duty	: Exempt	: Exempt	
Statistical tax	: 20,000 x 3% = 600	: 600 . 2	: 300
Standard tax	: 20,600 x 30,90% = 6365	: 6365 : 2	: 3,183
			3,483
Turnover tax	(20,000+3,483) x 13.50%	:	3,170
Total of duties and taxes payable	:		6,653

The relations of Senegal with Mauritania

Following the conversations held between the Mauritanian and Senegalese Ministers of Finance at Nouakchott, a new Customs agreement will be concluded between Mauritania and Senegal in the context of the WACU, to take into account the divergent developments in the taxation systems of the two States over the last two years.

Until then, however, the system of complete Customs unions and inter-State repayments proportional to a lump sum estimate of consumption will remain in force.

Mutual relations between Senegal and
the Ivory Coast

Circular No. 1967 dated 24 April 1967 issued by the Customs Directorate of Senegal and Circular No. 37 dated 29 April 1967, issued by the Customs Directorate of the Ivory Coast give details of the arrangements under the new system of trade relations between the two States.

1. Procedure applied by Senegal

For original products manufactured in the Ivory Coast solely from raw materials not originating in that State or incorporating such raw materials, the system of fiscal taxation is applied, the amount of which is equal to 50 per cent of the most favourable taxation applicable to similar products imported from the EEC. Accordingly, this system comprises:

Exemption from Customs duty

Payment of 50 per cent of the total of fiscal duty, the statistical tax, the standard tax, the turnover tax, domestic taxes, the minimum taxation being equal to indirect taxes (turnover tax and domestic taxes on carbonated beverages, alcoholic beverages, edible oils, tobacco, cola nuts and green tea).

Examples:

- (a) The importation of outer garments for men, manufactured in the Ivory Coast from raw materials not originating in that State (value: 100,000 francs).

	EEC	Ivory Coast
Fiscal duty	: $100,000 \times 20\% = 20,000$: $20,000 : 2 = 10,000$
Statistical tax	: $100,000 \times 3\% = 3,000$: $3,000 : 2 = 1,500$
Standard tax	: $123,000 \times 20.60\% = 25,333$: $25,333 : 2 = 12,669$
Turnover tax	: $148,338 \times 13.50\% = 20,026$: $20,026 : 2 = 10,013$
Total of duties and taxes	: 68,364	: 34,182

As the minimum tax payable is equal to 20,026 francs (turnover tax), and is therefore below the amount of 50 per cent of the aggregate taxation (34,182 francs), the total amount of duties and taxes payable is 34,182 francs.

- (b) The importation of 5,000 packets of cigarettes manufactured in the Ivory Coast from material not originating in that State (value: 50,000 francs; net weight 100kg.).

	EEC	Ivory Coast
Fiscal duty	: $100 \times 730 = 73,000$: $73,000 : 2 = 36,500$
Statistical tax	: $50,000 \times 3\% = 1,500$: $1,500 : 2 = 750$
Standard tax	: $174,500 \times 20.60\% = 35,947$: $35,947 : 2 = 17,974$
Turnover tax	: $210,447 \times 13.50\% = 28,410$: $28,410 : 2 = 14,205$
Special tax	: $5,000 \times 20 = 100,000$: $100,000 : 2 = 50,000$
	238,857	119,429

As the minimum tax is 128,410 francs (turnover tax and special tax), and is therefore higher than the total of the 50 per cent of aggregate taxation (119,429 francs) the total amount of duties and taxes to be collected must be equal to this minimum, that is to say, 128,410 francs.

For agricultural products of the Ivory Coast and products obtained solely from the latter, as well as packing material therefor (of whatever origin):

The treatment is the same as for similar Senegalese domestic products; in other terms, the system comprises:

Exemption from Customs duty, fiscal duty, statistical tax and standard tax;

Collection of the turnover tax and domestic taxes, it being noted that the rate of the turnover tax to be applied is 13.5 per cent, whatever the product, excluding exempted goods. (For exemptions, see Act No.66-34 dated 28 May 1966, Annex I, schedule A, and note No.3752/DI dated 22 July 1966).

Examples:

- (a) Importation of fresh bananas originating in the Ivory Coast (value: 20,000 frnncs):

Fiscal duty	Exempt
Statistical tax	Exempt
Standard tax	Exempt
Turnover tax	Exempt

- (b) The importation of cola nuts originating in the Ivory Coast (value: 10,000 francs; net weight 200kg):

Fiscal duty	Exempt
Statistical tax	Exempt
Turnover tax 10,000 x 13.50 per cent	1,350
Domestic tax 200 x 10	2,000
Total taxes	<hr/> 3,350

Senegalese products sent to the Ivory Coast

Senegalese products of whatever nature whose final destination is the Ivory Coast are exempt from all export duties and taxes.

Products of the Ivory Coast sent to Senegal and re-exported to outside the WACU: any re-exportation to a country outside the Customs Union of Ivory Coast products that were intended for domestic consumption in Senegal and consequently exempt from all duties and taxes on export from the Ivory Coast must be immediately reported to the Customs Directorate in order to permit, where appropriate, the payment of the export duties and taxes chargeable by the Ivory Coast Customs.

2. Conditions and procedures applied by the Ivory Coast resulting from the exchange of letters with Senegal, subject to reciprocity:

The expression "aggregate rate of taxation" appearing in Article 6 of the Convention covers all duties and taxes collected at the frontier of the Customs Union by the Customs Department on products imported from the LEC.

Products originating in Senegal will be subject to half of this aggregate taxation, with, however, a minimum charge equal to the domestic taxes (value added tax, special taxes and the additional tax (contribution nationale) on special taxes) in force in the Ivory Coast.

However, the value added tax and the special taxes (including the additional tax on special taxes) may not be collected at the frontier of the Customs Union by the Customs Departments on imported products at rates lower than those applied by the Ivory Coast Tax Department to domestic products.

Consequently, to implement the reduction of 50 per cent of the aggregate rate of taxation provided for under the Convention and the implementing ordinance of the Ivory Coast Government, it was necessary:

To determine reduced rates of fiscal duty in relation to the normal rate of fiscal duty in relation to the normal rate of fiscal duty appearing in the tariff;

To abolish the special entrance duty (DSE)

To retain value added tax at the rates mentioned in the tariff

To consider special taxation for products liable to special taxes in the Ivory Coast.

The measures adopted to this end were the subject of:

Letter No. 1005 MATF/douanes dated 15 April 1967 from the Minister for Economic and Financial Affairs of the Ivory Coast to the Minister of Finance of Senegal;

Letter No. 2,515 FM/CAF/8 dated 18 April 1967 from the Minister of Finance of Senegal to the Minister for Economic and Financial Affairs of the Ivory Coast.

In implementation of this exchange of letters, the taxation applicable to Senegalese products declared for consumption in the Ivory Coast is as follows:

Senegalese agricultural products not subject to special tax in the Ivory Coast are liable, where appropriate, only to the value added tax according to their nature, on the same conditions as similar products from the Ivory Coast.

Industrial products obtained in Senegal solely from Senegalese agricultural products not subject to special taxes in the Ivory Coast as well as packing materials therefor, whatever the origin of the latter, are liable only to the value added tax, according to their nature.

Products manufactured in Senegal, whatever the origin of the raw materials and products utilized, and similar to products subject to special taxes in the Ivory Coast, are liable only to the value added tax and special taxes, including an additional tax (contribution nationale) on the value added tax and on the special taxes at the rate applicable to similar products originating or manufactured in the Ivory Coast.

All other products of Senegales industry not subject to special duties in the Ivory Coast, which are obtained entirely or in part by processing imported raw materials or products are liable to the following charges, irrespective of the system under which the raw materials or products were imported into Senegal:

Fiscal duty at the reduced rates mentioned in the table below, calculated so that the total of duty and taxes on these products, including value added tax, is equal to half the aggregate duty and taxes on similar products imported from the EEC; the value added tax at rates in force in the Ivory Coast, according to their nature;

In all cases, the special import duty is no longer levied on Senegalese products.

Exports. As agreed in the exchange of letters, all products intended for domestic consumption in Senegal are exempt from export duty and taxes.

However, this exemption is granted only to products exported from the Ivory Coast direct to Senegal, subject to Customs bond.

Table of Reduced Rates of Fiscal Duty

Fiscal duty - Normal system	Value added tax		
	Reduced rate	Normal rate	Increased rate
	Reduced rates of fiscal duty applicable	Reduced rates of fiscal duty applicable	Reduced rates of fiscal duty applicable
%	%	%	%
5	4.45	1.36	-
7	5.45	2.36	-
10	6.95	3.86	-
15	9.45	6.36	1.26
20	11.95	8.96	3.76
25	-	11.36	6.26
30	-	13.86	8.76
35	-	16.36	11.26
40	-	18.86	13.76
45	-	21.36	16.26

These rates are applicable first, to products of Senegalese industry that are not liable to special taxes and, secondly, to packing materials entirely or partially obtained by the processing of raw materials or products originally imported into Senegal on any basis whatsoever.

The relations of the Ivory Coast with the Upper Volta and the Niger

In an ordinance No. 66-593 dated 14 December 1966, concerning inter alia article 5 of the WACU Convention, the Government of the Ivory Coast stipulated that the provisions concerning reduced fiscal taxation at 50 per cent of the aggregate rate of the most favourable taxation would not be applied to its imports from the Upper Volta and the Niger, which would, as before, be governed by previous agreements.

Products originating in the Upper Volta are, as before, subject to the provisions of the trade agreement between the Upper Volta and the Ivory Coast signed at Abidjan on 19 February 1966.

Products originating in the Niger are subject to the provisions of the trade agreement between the Niger and the Ivory Coast signed at Abidjan on 19 March 1963.

The relations of the Upper Volta with the other WACU States

In an important ordinance concerning fiscal duties dated 30 December 1966, the Government of the Upper Volta decided that the reduction in taxation provided for by the WACU Convention or other agreements in force should apply only to the following duties and taxes:

- Fiscal duty;
- Statistical tax;
- Standard tax.

The said duties and taxes are, after reduction, collected in the form of a single tax, from which is deducted the statistical tax, which is always paid at the normal rate. When a product is subject only to statistical tax on importation, this is levied at the normal rate (article 5 of the Ordinance).

On export (article 8) products taken from the domestic market and intended for consumption in a member State of WACU are exempt from:

- (a) Fiscal export duty;
- (b) The standard tax, except for bovines, goats and live poultry (Nos. 01-02-00, 01-04-00, 01-05-00 of the Customs nomenclature), which are still subject to this tax. This favourable treatment is granted only if it is duly justified by reason of the privileged destination.

The relations of the Niger with the other WACU States

In a note from the Minister of Finance (Note No. 57 MF/CAB/CTD dated 12 December 1966) to the Director of Customs, the Government of the Niger defined the procedure for implementing the WACU Convention.

It was decided that taxation at the reduced rate of 50 per cent would apply to the fiscal import duty, the statistical import tax and the standard import tax.

Finished products made in a WACU State merely by assembling parts imported from third countries may enjoy reduced taxation only within the limits of a quota established by mutual agreement between two member States concerned, as in the case of the quota for Renault vehicles assembled in the Ivory Coast between 1 October 1966 and 30 September 1967.

Articles obtained by mere assembly of parts imported from third countries which have not been granted a quota are therefore taxed according to their genuine origin.

The note dated 12 December 1966 contained a schedule (see annex) of products manufactured in the WACU area and competing with those manufactured in the Niger, which are liable to taxation at 70 per cent of the fiscal duty, the statistical tax and the standard tax.

For the importation of products originating in the Customs Union and eligible for taxation at the reduced rates of 50 or 70 per cent, the Customs service of the Niger requires the production of a certificate of "Customs Union" origin.

Pursuant to article 6 (4) of the Convention, the arrangements existing on the date on its entry into force (15 December 1966), and special trade relations established between certain member States are to be maintained. As a result, the present system of taxing matches and cigarettes from WACU in the Niger remains unchanged.

Products originating in third countries and not consumed in a WACU State but sent to the Niger are subject to the import duties and taxes applicable to them by virtue of their primary origin. As a result, products not consumed locally in Senegal, which were eligible for exemption from duties and taxes in the Niger by means of repayment by Senegal to the Niger of the duties and taxes collected on importation from Senegal, will be taxed according to their genuine origin.

Finally, it was decided that petroleum products made from crude oil refined in a member State of WACU and imported into the Niger should be taxed according to the origin of the crude oil from which they were made.

The relations of Dahomey with the other WACU States

In a circular No. 3/B1 dated 24 February 1967 defining the practical implementation of Ordinance No. 36/PR/MFAE/DDT dated 26 August 1966, the Government of Dahomey stipulated its position concerning the implementation of the WACU Convention. The latter "seems to be only the result of collation, of decisions that have long been applied and are known by the service and users", and of recommendations and decisions of the original Organization of 9 June 1959.

For products originating in the WACU area, the circular reproduces the specific texts of the new Convention.

Article 8 (1) of the Convention will apply to products originating in third countries and not consumed in a member State of WACU but sent to Dahomey only on presentation of a Customs document showing that the duties and taxes paid in the State of first importation will be repaid to the consignor.

Goods not consumed in the country of re-exportation must be taken from stock for that purpose. A Customs declaration must be filed for the purposes of importation.

As a result, the repayment system does not cover the re-exportation of goods imported through frontier posts and offices merely against a Customs clearance receipt.

Products entering the Customs territory or imported but not declared for consumption in Dahomey must be sent to the embarkation port or the point of exit under the transit system and must be covered by a Customs bond declaration, the escort system being strictly forbidden.

Agricultural products from WACU countries, formerly exempt from all taxation on entering Dahomey, are henceforth subject to the same taxation as manufactured goods.

Taxation at the reduced rate of 50 per cent applicable to products originating in WACU countries affects only Dahomey's fiscal import tax, which has existed since 29 December 1966 as a fusion of the fiscal entry duty, the statistical import duty, the standard import tax and the fiscal tax of 20 per cent.

Except in cases covered by quota agreements between a member State and Dahomey, "goods produced in a member State merely by assembling parts imported from a third country" (article 6 (2) of the Convention) and which must be taxed according to their genuine origin, do not enjoy the privilege of taxation at 50 per cent of the aggregate most favourable duty.

The provisions of article 8 (1) of the WACU Convention defining the tariff system applied to products of third countries imported by member States and re-exported to another member State seem implicitly to nullify the prohibition on re-exportation, since the goods must be taxed again in the member State to which they are consigned.

According to the provisions of the decree of June 1962 concerning export taxes on national products, these goods are exempt from duty when they are exported to WACU countries.

II. The common external tariff

No common external import tariff yet exists in the WACU States.

It is, however, intended to establish such a tariff and the limits are defined by article 3 (1) of the WACU Convention:

"The common external tariff shall be constituted by Customs duties," ruling out in principle any common arrangement concerning fiscal import duties on goods from countries outside WACU. But "member States shall apply a common external tariff, and standardized Customs legislation and regulations" (article 2).

It is evident, although the Convention makes no mention of it, that the common external tariff cannot affect the trade relations of WACU States with the European Economic Community as established at Yaoundé.

The functions of the Secretary-General of WACU, as stated in article 12 of the Convention, include studies on a common external tariff and on problems of standardizing Customs legislation and regulations. Pending the elaboration of such studies, and the decisions of the WACU concerning the common external tariff, the various States are applying the tariff systems and duties in force in each State or the new decisions that each State decides to take in the light of its own particular trade agreements. No common provisions are contemplated for the WACU States.

The common external tariff of the WACU "shall comprise a minimum tariff and a general tariff, which shall be three times the minimum tariff. No tariff concessions below the minimum tariff may be granted" (article 3 (2) and (3) of the Convention). However, the Convention contains no definition of the minimum tariff. Thus, the door is open for negotiations with similar agencies or States that might enjoy tariff preference.

Finally, article 4 stipulates that WACU "may be entrusted to enter into tariff negotiations with a country or an international or regional organization on behalf of the member States". Furthermore, the Council of Ministers of the WACU "may authorize a member State to negotiate with third countries intermediate tariffs between the general tariff and the minimum tariff, which, however, shall be applicable only within the signatory State".

III. The organs of the WACU

According to article 9 of the Convention, the organs of the WACU are as follows:

The Council of Ministers;
The Committee of Experts;
The General Secretariat.

"The Council of Ministers shall be the supreme organ of WACU" (article 10 (1)). Each country is represented in the Council by its Minister of Finance or another member of its Government.

The Council alone has the power of decision. Its decisions are made by a five-sevenths majority. They are binding on each member State and are enforceable within a maximum of four months after the date of notification by the Secretary-General (article 10 (6) and (7) of the Convention and Decision 23/UD/66 of the Customs Union Committee).

The Committee of Experts is composed of representatives of member States (article 11 (1)). It makes proposals, recommendations or gives opinions on questions submitted by the Secretary-General (article 11 (5)).

The Secretary-General has no power of decision. He acts as Chairman of the Committee of Experts. Under the authority of the Chairman of the Council of Ministers it is his duty to provide liaison between member States and the similar organs which collect information and make studies. He holds a watching brief with regard to the implementation of the Council's decisions (article 12).

A series of decisions by the Customs Union Committee has established the conditions of service of the Secretary-General and his administrative staff, an operational budget for 1967 and a capital development budget, as well as the distribution of the contributions made by member States.

It should be noted that Togo, a member of the West African Monetary Union, does not belong to the WACU, although it is associated, like the other countries, with the EEC.

Mali's arrangements with the other WACU member States are not yet known.