

COMMISSION OF THE EUROPEAN COMMUNITIES

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COMMISSION COMMUNICATION TO THE COUNCIL

ON THE ACCESSION OF THE FORMER OCT TO THE
ACP-EEC CONVENTION OF LOME AND PROPOSALS
FOR CERTAIN LEGAL ACTS RELATING THERETO

COM(78) 29 final.

COMMISSION COMMUNICATION TO THE COUNCIL
OF THE ACCESSION OF THE REPUBLIC OF DJIBOUTI TO THE
ACP - EEC CONVENTION OF LOME AND PROPOSALS
FOR CERTAIN LEGAL ACTS RELATING THERETO

1. On 27 June 1977 the Republic of Djibouti became independent and on 13 July, it applied to accede to the Lomé Convention.

The formalities laid down in Article 89 of the Convention for a former OCT that has become independent involve approval of the application by the ACP-EEC Council of Ministers and the depositing by the country concerned of an instrument of accession with the Council Secretariat (Annex I).

This procedure is under way and should be completed by the end of March 1978 at the latest.

Meanwhile, the Council adopted at its meeting on 25 July the Decision concerning the provisional application to the Republic of Djibouti until 26 June 1978 of the arrangements provided for in the Decision of 29 June 1976 on the association of the OCT with the EEC.

In order to avoid additional delays in the application to the Republic of Djibouti of the Lomé Convention arrangements after that country's accession to the Convention, it is important to proceed now with the adoption of all the legal acts necessary to that end.

2. TRANSFER OF EDF RESOURCES

Article 1 (4) of the Internal Agreement on the financing and administration of Community aid to 11 July 1975 reads as follows :

"Where a country or a territory which has become independent accedes to the Convention, the amounts indicated in paragraph 3(b) above shall be reduced and those indicated in paragraph 3 (a) above correspondingly increased by a decision taken by the Council acting unanimously on a proposal from the Commission."

The Commission therefore proposes that the Council adopt a decision to this effect (Annex II).

The Commission proposal has been drawn up in the light of the allocation for the French Territory of the Afars and Issas (FTAI) resulting from the breakdown by France, in consultation and agreement with the Commission, of the amounts earmarked for the French overseas territories.

To the amount thus obtained (3.6 million EUA), an amount of 350,000 EUA must be added from the share still available for the poorest OCT. The country in question clearly belongs to that category and the above amount allows for an equitable distribution among the various eligible countries and territories.

Since 1,200,000 EUA has already been committed for the FTAI, the total transfer amounts to 2,750,000 EUA. In view of the Republic of Djibouti's particularly unfavourable situation, the whole of this amount must be allocated in grant form. In accordance with the proportion to be kept in reserve of the total earmarked for the OCT, 1,820,000 EUA is to be taken from the grant amount, 58,000 EUA from the reserve amount and 350,000 EUA from the amount set aside for the poorest countries and territories.

3. After consultation with the European Investment Bank, it does not seem necessary to envisage any transfers for risk capital.
4. As regards Stabex, it is proposed that a statement be recorded in the minutes of the Council drawing attention to the provisions of Article 1 (4) of the Internal Agreement (Annex IIIa).

5. ADJUSTMENT OF THE TEXTS CONCERNING THE OCT

- (a) Article 56 of the Council Decision of 29 June 1976 stipulates that :
"If a country or territory becomes independent, the Council, acting unanimously on a proposal from the Commission, shall decide on any necessary adjustments to this Decision, in particular to the amounts specified in Article 30".

Apart from the adjustment to Article 30 of the above Decision on the basis to the transfer to be made in the Internal Agreement (see point 2 above), the name of the former territory is to be deleted from :

- the list of the OCT in Annex I to the Decision,
- Article 23 (5) of the Decision,
- Article 26 of the Decision.

The Commission therefore proposes that the Council adopt a decision to this effect (Annex III).

(b) A list of the OCT also appears in :

Annex I to Council Regulation (EEC) No 706/76 of 30 March 1976 on the arrangements applicable to agricultural products and certain goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States or in the overseas countries and territories ;

The Commission therefore proposes that the said Regulation be amended (Annex IV).

6. ECSC AGREEMENT

The Agreement (with the ACP States) on products within the province of the European Coal and Steel Community, of 28 February 1975, does not provide for any accession procedure. It therefore follows that accession can take place only by means of an agreement between all the contracting parties to the 1975 Agreement. It would furthermore be possible to envisage an agreement with the same content between the Member States of the ECSC and the new ACP State. Once this country is deleted from the list in Annex I to the Council Decision of 29 June 1976 (see point 3 (a) above), it can no longer benefit under the Decision of the Representatives of the Governments of the Member States of the European Coal and Steel Community, meeting in the Council on 20 January 1976, on the opening of tariff preferences for products within the province of that Community originating in the overseas countries and territories associated with the Community (1).

Since this Agreement has no real economic significance for the Republic of Djibouti, which has no coal or steel industry, and given that the Agreement is in force for only five years, that is until 1980, and in view of the time that would be needed for the Member States to ratify any supplementary agreement, it does not seem necessary to propose any action on this point.

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(1) See the first paragraph of Article 1 :

"The duties applicable in the Community to imports of products within the province of the European Coal and Steel Community originating in the countries and territories listed in Annex I to Decision 76/568/EEC, the charges having an effect equivalent to such duties and the collection of such duties and charges shall be suspended ; however, the treatment applied to these products shall not be more favourable than that applied by the Member States among themselves."

7. DECISION TO BE TAKEN BY THE ACP-EEC COUNCIL OF MINISTERS

(a) Article 48 (3) of the Convention provides that :

"The list of ACP States in paragraph 2 may be amended by decision of the Council of Ministers :

- where a third State in a comparable economic situation accedes to this Convention,
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This list is also applicable in connection with the stabilization of export earnings system provided for in the Convention (Article 21 (5)). The territory of the Afars and Issas is referred to by the corresponding provision of the Council Decision of 29 June 1976 (Article 23 (5)), which clearly indicates - since the territory is not an island - that the EEC counts it as being among the least developed OCT. This classification is perfectly justified by the country's income level, by its dependence on a small range of exports and on structural food imports, and, at the present time, by the dramatic situation caused by the conflict in the region. The Commission therefore recommends to the Council that the Community adopt a favourable position in the ACP-EEC Council of Ministers on the inclusion of this new ACP State in the list in Article 48 (draft decision : Annex VI).

(b) The list in Article 24 of the Convention comprises the ACP States listed in Article 48 plus the landlocked or island ACP States. As one of the least developed countries, the Republic of Djibouti should also benefit from the special advantages of Articles 17 (1) and (2) and 19 (2). A firm attitude on this point is also recommended in the ACP-EEC Council of Ministers.

The Council will find enclosed the following proposals and recommendations :

- An information notice on the accession of the Republic of Djibouti to the ACP-EEC Convention of Lomé to be published in the Official Journal (annex I) ;
- A proposal for a Council decision adjusting the amounts made available to the European Development Fund (1975) for the ACP States on the one hand and the countries and territories and the French overseas departments on the other hand (Annex II) ;
- A proposal for a Council decision adapting the Decision of 29 June 1976 on the association of the overseas countries and territories with the European Economic Community (Annex III) ;
- A proposal for a Council regulation amending Regulation No 706/76 on the

arrangements applicable to agricultural products and certain goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States or in the overseas countries and territories as regards the list of the countries and territories in question (Annex IV) ;

- A proposal for a decision of the ACP-EEC Council of Ministers approving the accession of the Republic of Djibouti to the Lomé Convention (Annex V) ;
- A proposal for a decision of the ACP-EEC Council of Ministers amending the list of the least developed ACP States (Annex VI).

ANNEX I

ACCESSION OF THE REPUBLIC OF DJIBOUTI TO THE ACP-EEC CONVENTION OF LOME

(For publication in the Official Journal)

The Republic of Djibouti, by depositing its instrument of accession in accordance with Article 89 of the ACP-EEC Convention of Lomé⁽¹⁾, acceded to the Convention

Consequently, with effect from that date, any reference to the "ACP States" in the Acts of the Institutions of the Community also applies to the Republic of Djibouti.

(1) OJ No L 25, 30.1.1976, p. 2

PROPOSAL FOR A COUNCIL DECISION
of

adjusting the amounts made available to the European Development Fund (1975)
for the ACP States and for the overseas countries and
territories and the French overseas departments

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the Internal Agreement on the financing and administration of
Community aid (1) signed on 11 July 1975, hereinafter called the "Internal Agreement",
and in particular Article 1 (4) thereof,

Having regard to the proposal from the Commission,

Whereas the Republic of Djibouti, which as the Territory of the Afars and Issas was
one of the overseas countries and territories associated with the Community by virtue
of Decision 76/568/EEC (2), having become independent, has applied to accede to
the Convention of Lomé pursuant to Article 89 thereof ; whereas the ACP-EEC Council
of Ministers approved this request on 21.12.1977 ; whereas this State will
accede to the Lomé Convention from the date of deposition of its instrument of accession
with the Secretariat of the Council ;

Whereas, therefore, in accordance with Article 1 (4) of the Internal Agreement,
the amounts provided for the overseas countries and territories in Article 1 (3) (b)
of the said Internal Agreement should be reduced and those provided for the ACP States in
subparagraph (a) of that paragraph correspondingly increased.

HAS DECIDED AS FOLLOWS :

Article 1

Article 1 (3) (a) and (b) of the Internal Agreement is amended to read
as follows:

- "(a) 3,034.35 million European units of account for the ACP States, comprising :
- 2,126.75 million European units of account in the form of grants,
- 436.60 million European units of account in the form of special loans,
- 96 million European units of account in the form of risk capital,

(1) OJ No L 25, 30.1.1976, p. 168
(2) OJ No L 176, 1.7.1976, p. 8

- 375 million European units of account in the form of transfers pursuant to Title II of the Convention ;
- b) 96 million European units of account for the countries and territories and the French overseas departments, comprising :
- 43.18 million European units of account in the form of grants ;
 - 34.40 million European units of account in the form of special loans;
 - 4 million European units of accounts in the form of risk capital ;
 - 14.420 million European Units of account in the form of a reserve.

Article 2

This Decision shall enter into force on the date of its publication in the Official Journal of the European Communities. It shall apply with effect from the date on which the instrument of accession of the Republic of Djibouti is deposited in accordance with article 89 of the Lomé Convention.

Done at Brussels,

For the Council,

The President,

PROPOSAL FOR A COUNCIL DECISION

OF

adjusting Decision 76/568/EEC on the association of the overseas countries and territories with the European Economic Community

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Decision 76/568/EEC of 29 June 1976 on the association of the overseas countries and territories with the European Economic Community (1), and in particular Article 56 thereof,

Having regard to the proposal from the Commission,

Whereas Decision 76/568/EEC provides for its adjustment where an overseas country or territory which has become independent accedes to the ACP-EEC Convention of Lomé (2), hereinafter called the "Convention" ;

Whereas the Territory of the Afars and Issas, which is listed in Annex I to Decision 76/568/EEC and has become independent as the Republic of Djibouti, has applied to accede to the Convention ; whereas the ACP-EEC Council of Ministers approved this request on 21.12.1977 ; whereas this State will accede to the Convention from the date of deposition of its instrument of accession;

Whereas the various lists contained in Decision 76/568/EEC and the amounts stated in Article 30 thereof should therefore be adjusted,

HAS DECIDED AS FOLLOWS :

Article 1

1. The following shall be deleted in Article 23 (5) and Article 26 of Decision 76/568/EEC :

- the "Territory of Afars and Issas"

(1) OJ No L 176, 1.7.1976, p. 8

(2) OJ No L 25, 30.1.1976, p. 1

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2. The following shall be deleted in the list set out in Annex I to Decision 76/568/EEC :
- the "Territory of the Afars and Issas"

Article 2

The text of Article 30 of Decision 76/568/EEC is amended to read as follows :

Article 30

The following provisions shall apply :

1. The aggregate amount of the Community's aid shall be reduced to 126.0 million European units of account.
2. This amount comprises :
 - (a) 116.0 million European units of account from the European Development Fund (1975), hereinafter called the "Fund", allocated as follows :
 - (i) for the purposes set out in Article 28, 96.0 million European units of account, consisting of :
 - 43.18 million European units of account in the form of grants,
 - 34.40 million European units of account in the form of special loans,
 - 4 million European units of account in the form of risk capital.
 - 14.42 million European units of account in the form of a reserve ;
 - (ii) 20 million European units of account, likewise from the Fund, in the form of transfers to the countries and territories for the stabilization of export earnings.
 - (b) For the purposes set out in Article 28, up to 10 million European units of account in the form of loans from the Bank, made from its own resources on the terms and conditions provided for in its statute and supplemented, as a general rule, by a 3 % interest rate subsidy, under the conditions laid down in Article 4 of Annex V.

The total cost of the interest rate subsidies shall be charged against the amount of the grants provided for in point 2 (a) (i).

3. Following the accession of the Republic of Djibouti to the Convention, the amounts provided for in the form of grants, special loans and a reserve, initially allocated in three equal parts among the French overseas territories and departments and the Netherlands and United Kingdom overseas countries and territories, shall be reduced in accordance with Decision (1).
4. (a) Of the portion allocated to the French overseas territories and departments :
 - 7.70 million European units of accounts shall be allocated to the French overseas departments ;
 - 1.15 million European units of account shall remain allocated as financial aid to the least-favoured overseas countries and territories irrespective of the zones within which they fall.
- (b) The sums allocated to the French overseas territories shall amount to 12.10 million European units of account, consisting of :
 - 10.10 million European units of account taken from the share allocated to the French overseas territories and departments ;
 - 2 million European units of account pursuant to Decision 76/568/EEC.

Article 3

This Decision shall enter into force on the date of its publication in the Official Journal of the European Communities. It shall apply with effect from the date on which the instrument of accession of the Republic of Djibouti to the Convention is deposited.

Done at Brussels,

For the Council
The President,

ANNEX IIIa

COUNCIL DECLARATION CONCERNING THE REPUBLIC OF DJIBOUTI AND STABEX

The Council recalls that, in accordance with the procedure provided for in Article 1 (5) of the Internal Agreement on the financing and administration of Community aid, the above ACP State will continue to be eligible for the funds provided for the Article 1 (3) (c) of that Agreement, subject to the management rules laid down in Title II of the ACP-EEC Convention of Lomé.

ANNEX IV

COUNCIL REGULATION (EEC) NO OF

amending the list of the countries and territories in Regulation (EEC) No 706/76 on the arrangements applicable to agricultural products and certain goods resulting from the processing of agricultural products originating in the African Caribbean and Pacific States or in the overseas countries and territories.

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 43 and 113 thereof,

Having regard to Council Regulation (EEC) No 1059/69 of 28 May 1969 laying down trade arrangements applicable to certain goods resulting from the processing of agricultural products (1), as last amended by Regulation (EEC) No 3058/75 (2) and in particular Article 12 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (3),

Whereas Council Regulation (EEC) No 706/76 of 30 March 1976 (4) laid down the arrangements applicable to agricultural products and certain goods resulting from the processing of agricultural products originating in the African, Caribbean and Pacific States or in the overseas countries and territories ;

Whereas the Territory of the Afars and Issas, which appears on the list of the countries and territories contained in Annex I to that Regulation, has become independent as the Republic of Djibouti ;

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- (1) OJ No L 141, 12.6.1969, p. 1
- (2) OJ No L 306, 26.11.1975, p. 3
- (3) OJ No
- (4) OJ No L 85, 31.3.1976, p. 2

ANNEX IV (2)

Whereas the ACP-EEC Council of Ministers has approved the accession of that State to the ACP-EEC Convention of Lomé (1) ; whereas it should therefore be counted, from the date of deposition of its instrument of accession, among the ACP States referred to in Article 1 of Regulation (EEC) No 706/76; whereas the list in Annex I should, therefore, be adjusted.

HAS ADOPTED THIS REGULATION :

Article 1

The words "Territory of the Afars and Issas" shall be deleted from the Annex to Regulation (EEC) No 706/76.

Article 2

This Regulation shall enter into force on the day of its publication in the Official Journal of the European Communities. It shall apply with effect from the date on which the instrument of accession of the Republic of Djibouti to the Lomé Convention is deposited in accordance with Article 89 thereof.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

For the Council,
The President,

(1) OJ No L 25, 30.1.1976, p. 2

ANNEX V

PROPOSAL FOR DECISION No OF THE ACP-EEC COUNCIL OF MINISTERS

approving the accession of the Republic of Djibouti to the ACP-EEC Convention of Lomé.



THE ACP-EEC COUNCIL OF MINISTERS,

having regard to the ACP-EEC Convention of Lomé signed on 28 February 1975, and in particular Article 89 thereof,

Annex V (2)

Whereas an application for accession to the ACP-EEC Convention of Lomé was submitted by the Republic of Djibouti on 13.7.1977 and referred to the ACP-EEC Council of Ministers ;

Whereas the provisions of Part Four of the Treaty establishing the European Economic Community apply to that country ;

Whereas the Republic of Djibouti has acceded to independence :

HAS DECIDED AS FOLLOWS :

Article 1

The application for accession to the ACP-EEC Convention of Lomé presented by the Republic of Djibouti is hereby approved.

Article 2

This Decision shall enter into force on

Done at

For the ACP-EEC Council of Ministers,

The President,

ANNEX VI

PROPOSAL FOR A DECISION OF THE ACP-EEC COUNCIL OF MINISTERS

of

amending the list of least developed ACP States

THE ACP-EEC COUNCIL OF MINISTERS

HAS DECIDED AS FOLLOWS :

Article 1

The Republic of Djibouti shall be added to the list of ACP States in Article 48 (2) of the Convention.

Article 2

This Decision shall enter into force on

Article 3

The ACP States, the Member States and the Community shall, within their respective areas of competence, take any measures required to implement this Decision.

Done at

For the ACP-EEC Council of Ministers

The President,

FINANCIAL RECORD

for the Budget

Part ONE : INTERVENTION APPROPRIATIONS

(for existing and new projects)

1. RELEVANT BUDGET HEADING CODE

- (a) Revenue Part-Title I
- (b) Expenditure Part - None

2. TITLE OF BUDGET HEADING

- (a) Own resources
- (b) -

3. LEGAL BASIS

- (a) Legal basis quoted in the accompanying texts.

4. DESCRIPTION, OBJECTIVE(S) AND JUSTIFICATION OF THE PROJECT

- (a) Revenue : The accession of the Republic of Djibouti to the Convention merely involves a change from OCT status to ACP status. Consequently, it will not result in any change in the levies, duties and taxes charged on the products exported by that State to the EEC.
- (b) Expenditure : The accession of this State will have no effect on Community expenditure.

5. APPROPRIATIONS (in u.a.)

5.0. MULTIANNUAL TIMETABLE

Measure applicable throughout the period of validity of the Lomé Convention

5.1. PATTERN OF UTILIZATION OF APPROPRIATIONS DURING THE FINANCIAL YEAR NOW BEING PREPARED

None

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5.2. CALCULATION MODEL

None

6. TYPE OF CONTROL TO BE APPLIED

System of control provided for in the Financial Regulation of 25 April 1973 (own resources) and in the Lomé Convention.

B. Part TWO : ADDITIONAL DATA TO BE PROVIDED FOR A NEW PROJECT (1)

7. TOTAL COST OF THE PROJECT FOR THE WHOLE OF ITS EXPECTED DURATION

None

8. INFORMATION REGARDING STAFFING AND THE APPROPRIATIONS FOR ADMINISTRATIVE EXPENDITURE NECESSARY FOR THE IMPLEMENTATION OF THE PROJECT

The project will be carried out with the Commission's existing staff.

9. FINANCING OF THE PROJECT

The project affects only the allocation of the amounts earmarked for the OCT and ACP respectively in the Lomé Convention, which are borne by the Member States. There is therefore no effect on the Community Budget.

(1) The Commission Decision of 28 November 1973 on new budget procedures mentions the need to draw up for each new project a "financial memorandum" consisting of the two parts of this financial record.