

**ACP - EEC CONVENTION OF LOME**  
(signed 28 February 1975)

**COMPILATION OF TEXTS**

**I**

**1 April 1976 - 31 July 1976**

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(signed 28 February 1975)

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(beginning with I

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I - ACTS OF THE COUNCIL

RULES OF PROCEDURE  
OF THE COUNCIL OF MINISTERS

Article 1

1. The Council of Ministers, hereinafter called the "Council", shall be convened by its President for the annual meeting provided for in Article 72(1) of the Convention on a date to be fixed by the President after consulting the members of the Council.
2. The Council shall likewise meet, in special session, at the request either of the ACP States or of the Community, on a date to be fixed by the President after consulting the members of the Council.

Article 2

The Council shall meet either where the meetings of the Council of the European Communities are usually held or in a city of one of the ACP States, in accordance with the decision taken by the Council.

Article 3

1. The provisional agenda for each meeting shall be drawn up by the President. It shall be communicated to the other members of the Council 30 days before the beginning of the meeting.

The provisional agenda shall consist of those items in respect of which a request for inclusion has reached the President one month before the beginning of the meeting.

The only items to appear on the provisional agenda shall be those in respect of which the relevant documentation has been transmitted to the Secretariat of the Council in time to be forwarded to the members of the Council and to the members of the Committee of Ambassadors, hereinafter called the "Committee", 21 days before the beginning of the meeting.

2. The agenda shall be adopted by the Council at the beginning of each meeting. In urgent cases the Council may decide, at the request of the ACP States or of the Community, to include on the agenda items in respect of which the time-limits laid down in paragraph 1 have not been observed.

#### Article 4

1. The members of the Council may be accompanied by officials to assist them.
2. The composition of each delegation shall be communicated to the President before the beginning of each meeting.
3. If a member of the Council is prevented from attending a meeting of the Council, he shall inform the President in writing and shall, where appropriate, indicate the person or delegation authorized to represent him.
4. A representative of the European Investment Bank shall attend the meetings of the Council when the agenda includes questions concerning the field of activities covered by the Bank.

Article 5

1. In accordance with Article 87 (5) of the Convention, representatives of Signatory States which, on the date of entry into force of the Convention, have not yet completed the procedures referred to in Article 86 thereof, shall sit on the Council as observers.
2. They may be authorized by the President to take part in Council debates.
3. These Rules of Procedure, and in particular Article 4 (1) to (3) thereof, shall also apply to such representatives.
4. This Article shall be subject to the time-limits laid down in the last two sentences of Article 87 (5) of the Convention.

Article 6

1. Unless otherwise decided, meetings of the Council shall not be public. Entry to meetings of the Council shall be subject to the showing of a pass.
2. Without prejudice to such other provisions as may apply, the deliberations of the Council shall be covered by the obligation of professional secrecy unless the Council should decide otherwise.

Article 7

The Council may be required to reach a decision on an urgent matter by correspondence in cases where agreement is given to the use of this procedure. Agreement may be obtained either during a meeting of the Council or in the Committee.

At the same time as this procedure is decided upon, a time-limit may be fixed within which replies shall be given. On the expiry of this time-limit, the Chairman of the Committee shall decide, on the basis of a report from the two Secretaries of the Council, whether, in view of the replies received, joint agreement may be considered to have been reached.

Article 73 (1) of the Convention shall apply to the proceedings provided for in this Article.

Article 8

All communications provided for in these Rules of Procedure shall be addressed through the Secretariat of the Council to the representatives of the ACP States, to the Secretariat of the Council of Ministers of the ACP States, to the Permanent Representatives of the Member States, to the Secretariat of the Council of the European Communities and to the General Secretariat of the Commission.

These communications shall also be addressed to the President of the European Investment Bank when they concern the Bank.

Article 9

Minutes shall be kept of each meeting, including in particular a summary of the decisions taken by the Council.

After their approval by the Committee, the minutes shall be signed by the President in office and by the two Secretaries of the Council and shall be kept in the archives of the Council. A copy of the minutes shall be forwarded to the recipients referred to in Article 8.

Article 10

Unless otherwise decided, the Council shall base its deliberations on documentation prepared in Danish, Dutch, English, French, German and Italian.

Any member of the Council may object to the discussion of a text proposed during a meeting if that text is not made available in the one of these six languages which he specifies.

Article 11

All decisions, resolutions, recommendations and opinions within the meaning of Article 74 of the Convention shall be divided into Articles.

The acts referred to in the preceding paragraph shall end with the formula "Done at ....., .....", the date to be inserted being that on which they are adopted by the Council.

Article 12

Decisions within the meaning of Article 74(3) of the Convention shall be entitled "Decision" followed by a serial number and a description of their subject.

Decisions shall specify the date on which they are to enter into force. They shall incorporate the following sentence: "The ACP States, the Member States and the Community shall be required, each for its own part, to take the necessary steps to implement this Decision".

Article 13

Resolutions, recommendations and opinions within the meaning of Article 74(4) of the Convention shall be entitled "Resolution", "Recommendation" or "Opinion" followed by a serial number and a description of their subject.

Article 14

Acts adopted by the Council shall be signed by the President and shall be kept in the archives of the Council.

A copy of each of these acts, signed by the two Secretaries of the Council and bearing at its head the phrase "certified copy of the Decision (or of the Resolution, of the Recommendation or of the Opinion) adopted by the Council on ...", shall be transmitted to the recipients referred to in Article 8.

Article 15

The office of President of the Council shall be held alternately as follows:

- from 1 April to 30 September by a member of the Government of an ACP State,
- from 1 October to 31 March by a member of the Council of the European Communities.

Article 16

The Council may delegate to the Committee any of the powers which it exercises pursuant to Article 81 of the Convention.

Article 17

1. The conditions under which the Committee meets shall be laid down in its Rules of Procedure.
2. The Committee shall be responsible for preparing the meetings of the Council and for carrying out any mandate which the Council may entrust to it.
3. The Convention, and in particular Article 73(1) thereof, as well as Articles 11 to 14 of these Rules of Procedure, shall apply to acts adopted by the Committee pursuant to the preceding paragraph.



Article 18

When the Council approaches the Consultative Assembly in accordance with Article 80(4) of the Convention, it shall delegate its President and, where appropriate, any other of its members. Should the President be unable to attend, he shall designate the member who is to take his place.

Article 19

1. For the application of Article 74(8) of the Convention the ACP States and the Community shall notify each other of the measures they propose to take in the cases provided for in the Convention.
2. The Contracting Parties may request consultation at any time from the date of notification. This shall take place as soon as possible and not later than twenty-one days from the date of request.
3. Should consultation give rise to a divergent assessment of the extent of the measures proposed or taken in an urgent case, the Contracting Party concerned shall reconsider those measures.
4. Consultations shall take place according to the form which is the most appropriate for the matter involved.
5. The competent body may be the Council, the Committee or an ad hoc group.

Article 20

Regional economic groupings of the ACP States may be represented at meetings of the Council as observers subject to a prior decision of the Council in accordance with Annex V to the Final Act of the Convention.

Article 21

The Secretariat of the Council and of the Committee shall be run jointly by two Secretaries.

These two Secretaries shall be appointed after joint consultation, one by the ACP States and the other by the Community.

The Secretaries shall perform their duties in complete independence, with a view solely to the interests of the Convention, and shall neither seek nor take instructions from any Government, organization or authority other than the Council and the Committee.

Correspondence intended for the Council shall be sent to the President of the Council at the address of the Secretariat.

Done at Brussels, 14 July 1976

For the Council of the ACP-EEC Ministers  
The President

(s.) KING



RULES OF PROCEDURE OF THE COMMITTEE OF AMBASSADORS

Article 1

The Committee of Ambassadors, hereinafter called the "Committee", shall meet on a date to be fixed by it by joint agreement between the ACP States and the Community.

The Committee may, in urgent cases, meet on another date at the request either of the ACP States or of the Community. The Chairman shall decide on the new date after consulting the other members of the Committee.

Article 2

The Committee shall meet at the places where the meetings of the Council of the European Communities are usually held. However, it may, by special decision, meet in the territory of an ACP State.

Article 3

1. The provisional agenda for each meeting shall be drawn up by the Chairman. It shall be communicated to the other members of the Committee at least eight days before the date of the meeting.

The provisional agenda shall consist of those items in respect of which a request for inclusion has reached the Chairman ten days before the date of the meeting.

The only items to appear on the provisional agenda shall be those in respect of which the relevant documentation has been transmitted to the Secretariat of the Council of Ministers in time to be forwarded to the members of the Committee eight days before the date of the meeting.

2. The agenda shall be adopted by the Committee at the beginning of each meeting. In urgent cases, the Committee may decide, at the request of the ACP States or of the Community, to include on the agenda items in respect of which the time-limits laid down in paragraph 1 have not been observed.
3. When the Committee meets in the circumstances referred to in the second paragraph of Article 1, the time-limits laid down in paragraph 1 may be shortened.

Article 4

1. The members of the Committee may be accompanied by officials to assist them.

They may be represented by persons appointed by them.

2. A representative of the European Investment Bank shall attend meetings of the Committee when matters which concern the Bank appear on the agenda.

Article 5

1. In accordance with Article 87 (5) of the Convention, representatives of Signatory States which, on the date of entry into force of the Convention, have not yet completed the procedures referred to in Article 86 thereof, shall sit on the Committee as observers.

2. They may be authorized by the Chairman to take part in Committee debates.

3. These Rules of Procedure, and in particular Article 4 (1) thereof, shall also apply to such representatives.

4. This Article shall be subject to the time-limits laid down in the last two sentences of Article 87 (5) of the Convention.

#### Article 6

1. Unless otherwise decided, meetings of the Committee shall not be public.
2. Without prejudice to such other provisions as may apply, the deliberations of the Committee shall be covered by the obligation of professional secrecy unless the Committee should decide otherwise.

#### Article 7

All communications provided for in these Rules of Procedure shall be addressed through the Secretariat of the Council of Ministers to the representatives of the ACP States, to the General Secretariat of the Council of Ministers of the ACP States, to the Permanent Representatives of the Member States, to the Secretariat of the Council of the European Communities and to the General Secretariat of the Commission.

Such communications shall also be addressed to the President of the European Investment Bank when they concern the Bank.

Article 8

Minutes shall be kept of each meeting, including in particular a summary of the decisions taken by the Committee.

After their approval by the Committee, the minutes shall be signed by the Chairman of the Committee and by the Secretaries of the Council of Ministers and shall be kept in the archives of the Council of Ministers. A copy of the minutes shall be forwarded to the recipients referred to in Article 7.

Article 9

The office of Chairman of the Committee shall be held alternately, for periods of six months, by the ACP States and by the Community.

Article 10

Correspondence intended for the Committee shall be sent to the Chairman of the Committee at the address of the Secretariat of the Council of Ministers.



Article 11

1. Unless otherwise decided, the Committee shall base its deliberations on documentation prepared in Danish, Dutch, English, French, German and Italian.
2. Any member of the Committee may object to the discussion of a text proposed during a meeting if that text is not made available in the one of these six languages which he specifies.

Article 12

The proceedings of the Committee shall be valid only if at least four of the Permanent Representatives of the Member States of the Community, one Commission representative and half of the members of the Committee of ACP Ambassadors are present.

Article 13

The Convention, and in particular Article 73 (1) thereof, as well as Articles 11 to 14 of the Rules of Procedure of the Council of Ministers shall apply to acts adopted by the Committee.

Article 14

Regional economic groupings of the ACP States may be represented at meetings of the Committee as observers subject to a prior decision of the Committee in accordance with Annex V to the Final Act of the Convention.

Article 15

The Committee shall be assisted by the following subcommittees, in addition to the Customs Co-operation Committee provided for in Article 28 of Protocol No 1 to the Convention, the Permanent Group on Bananas provided for in Protocol No 6 to the Convention, hereinafter referred to as the "Banana Group", and the Committee on Industrial Co-operation provided for in Article 35 of the Convention:

- (i) Subcommittee on Trade Co-operation
- (ii) Subcommittee on the Stabilization of Export Earnings
- (iii) Subcommittee on Sugar
- (iv) Subcommittee on Financial and Technical Co-operation.

The Committee may, if necessary, set up other subcommittees.

Article 16

Each Committee or Subcommittee and the Banana Group referred to in Article 15 shall be composed of at least five ACP Ambassadors or their representatives and, as regards the Community, of at least one Permanent Representative of the Member States of the Community and/or a representative of the Commission.

A representative of the European Investment Bank shall be present at meetings of these Committees or Subcommittees and the Banana Group when matters which concern the Bank appear on the agenda.

Article 17

Without prejudice to Article 16, any member of the Committee or his representative may participate in any meetings of the Committees or Subcommittees and the Banana Group referred to in Article 15.

Article 18

Each Committee or Subcommittee and the Banana Group referred to in Article 15 shall be presided over jointly by the Chairmen of both parties.

Article 19

Each Committee or Subcommittee and the Banana Group referred to in Article 15 shall meet at the request of either of the parties and after consultation between the Chairmen following a period of notice which, except in urgent cases, shall be 7 days.

Article 20

The Committees or Subcommittees and the Banana Group referred to in Article 15 shall submit reports on their work to the Committee.

Article 21

Members of the Committees or Subcommittees and the Banana Group referred to in Article 15 may be assisted by experts.

Article 22

With the approval of the Committee of Ambassadors, the Customs Co-operation Committee, the Banana Group and the Committee on Industrial Co-operation may draw up their own rules of procedure.

Article 23

Secretarial and other work required for the functioning of the Committee, and of the Committees or Subcommittees and the Banana Group referred to in Article 15 (preparation of agendas and circulation of documents relating thereto, etc.) shall be carried out by the Secretariat of the Council of Ministers.

Article 24

The Secretariat shall, as soon as possible after each meeting of the Committee, and of the Committees or Subcommittees and the Banana Group referred to in Article 15, draw up the record of the meeting.

Done at Brussels, 14 July 1976

For the Council of the ACP-EEC Ministers  
The President

(s.) KING

DECISION No 1/76 OF THE ACP-EEC COUNCIL OF MINISTERS  
OF 14 JULY 1976

on the composition of the Committee on Industrial Co-operation  
and its Rules of Operation

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THE ACP-EEC COUNCIL OF MINISTERS,

Having regard to the ACP-EEC Convention of Lomé, signed on  
28 February 1975 (hereinafter referred to as "the Convention") and  
in particular Article 35 thereof,

Having regard to the proposal from the Committee of Ambassadors,

Anxious to ensure the fulfilment of the objectives which the ACP States and the Community have set themselves under Title III of the Convention;

Having regard to the contribution that effective industrial co-operation between the ACP States and the Community can make to the industrial development of the former;

HAS ADOPTED the following composition for and rules of operation of the Committee on Industrial Co-operation,

#### Article 1

1. The Committee on Industrial Co-operation set up by Article 35 of the Convention (hereinafter referred to as "the Committee") shall be composed, on the one hand, of representatives of the nine Member States of the European Economic Community, a representative of the Commission of the European Communities and a representative of the European Investment Bank and, on the other hand, of fifteen representatives of the ACP States.

The term of office of the representatives of the ACP States shall be one year and shall be renewable.

#### Article 2

As set out in Article 35(2) of the Convention, the Committee shall:

- (a) see to the implementation of Title III of the Convention;

- (b) examine the problems in the field of industrial co-operation submitted to it by the ACP States and/or by the Community, and suggest appropriate solutions;
- (c) guide, supervise and control the activities of the Centre for Industrial Development referred to in Article 36 of the Convention and report to the Committee of Ambassadors and, through it, to the Council of Ministers;
- (d) submit from time to time reports and recommendations which it considers appropriate to the Committee of Ambassadors;
- (e) perform such other functions as may be assigned to it by the Committee of Ambassadors.

The Committee shall also carry out such other tasks as may be entrusted to it by the Council of Ministers, pursuant, in particular, to Decision No 2/76 laying down the Statutes and rules of operation of the Centre for Industrial Development.

#### Article 3

The office of Chairman of the Committee shall be held alternately, for periods of six months, by the ACP States and the Community.

#### Article 4

Meetings of the Committee shall be convened by the Chairman under the conditions set out in the Rules of Procedure laid down in Article 7.



Article 5

Without prejudice to Article 1, any ACP State which is not a member of the Committee may participate in meetings of the Committee as an observer.

Article 6

Within the framework of its duties, the Committee shall act by mutual agreement between the ACP States on the one hand and the Community on the other.

Article 7

The Committee shall adopt its own rules of procedure.

Article 8

The regional economic groupings of the ACP States referred to in Annex V to the Final Act of the Convention as well as any other regional economic groupings between ACP States as may be approved by the Council of Ministers may be represented at meetings of the Committee as observers.

Article 9

The Centre for Industrial Development shall be represented at the meetings of the Committee at which the latter lays down guidelines and defines the periodic reviews of the activities of the Centre.

Article 10

The Committee shall lay down detailed arrangements for the regular consultation of the economic and social sectors of the ACP States and of the Community.

Article 11

The ACP States, the Member States and the Community shall, each for their own part, take the measures necessary to implement this Decision.

Article 12

This Decision shall enter into force on 16 July 1976.

Done at Brussels, 14 July 1976

For the ACP-EEC Council of Ministers  
The President

(s.) KING



DECISION No 2/76 OF THE ACP-EEC COUNCIL OF MINISTERS

OF 14 JULY 1976

laying down the statutes  
and rules of operation of  
the Centre for Industrial Development

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THE ACP-EEC COUNCIL OF MINISTERS,

Having regard to the ACP-EEC Convention of Lomé signed on  
28 February 1975 (hereinafter referred to as "the Convention"), and  
in particular Article 36 thereof,

Having regard to the proposal from the Committee of Ambassadors,

Anxious to ensure the fulfilment of the objectives which the ACP States and the Community have set themselves,

Having regard to the contribution that effective industrial co-operation between the ACP States and the Community can make to the industrial development of the former and, amongst others, the need for information, promotion and technical co-operation in the industrial field,

HAS ADOPTED the following Statutes and rules of operation of the Centre for Industrial Development:

Article 1

1. The Centre for Industrial Development set up by Article 36 of the Convention (hereinafter referred to as "the Centre") shall enjoy in each of the States which are Parties to the Convention the most extensive legal capacity accorded to legal persons.
2. The Centre shall be non-profit-making. It shall have its seat in Brussels.
3. The functions of the Centre, as set out in Article 36 of the Convention, are as follows:
  - (a) to gather and disseminate in the Community and the ACP States all relevant information on the conditions of and opportunities for industrial co-operation;

- (b) to have, at the request of the Community and the ACP States, studies carried out on the possibilities and potential for industrial development of the ACP States, bearing in mind the necessity for adaptation of technology to their needs and requirements, and to ensure their follow-up;
- (c) to organize and facilitate contacts and meetings of all kinds between Community and ACP States' industrial policy-makers, promoters and firms and financial institutions;
- (d) to provide specific industrial information and support services;
- (e) to help to identify, on the basis of needs indicated by the ACP States, the opportunities for industrial training and applied research in the Community and in the ACP States, and to provide relevant information and recommendations.

#### Article 2

The activities of the Centre shall be guided, supervised and controlled by the Committee on Industrial Co-operation (hereinafter referred to as "the Committee") in accordance with Article 35 of the Convention.

#### Article 3

1. The Centre shall be headed by a Director, appointed by the Committee.
2. The Director shall be assisted by a Deputy Director appointed by the Committee.

3. The Director shall be the legal representative of the Centre.

Article 4

1. An Advisory Council (hereinafter referred to as "the Council") shall be established to advise the Director.

The Council shall assist the Director and be consulted by him on all matters of major importance deriving from the work programme of the Centre. It may also, on its own initiative, raise such matters and any other matters relating thereto with the Director. In the event of disagreement between the Director and the Council, the Committee shall be informed of the views of the Council.

2. The Council shall be composed of 12 members with industrial experience, chosen on the individual basis from nationals of the States which are parties to the Convention on the grounds of their qualifications and experience.

They shall be appointed by the Committee.

3. Members of the Council shall be appointed for a period of two years. Their term of office may be extended.
4. Members of the Council shall select from among their number a Chairman who shall hold office for one year.

5. The Council shall lay down the number of meetings it shall hold each year. It shall also meet whenever necessary for the execution of its tasks, either at the request of the Director or on its own initiative when so requested by at least 2/3 of its members.
6. The Director or his representative shall take part in the proceedings of the Council. The Centre shall prepare the Council's meetings and provide the secretariat thereof.
7. The Council may invite experts from outside the Centre to give opinions on specific questions.
8. The Council shall adopt its own rules of procedure and submit them to the Committee for approval.

#### Article 5

1. The Director, after consulting the Council, shall submit the annual work programme of the Centre to the Committee for approval together with the opinion of the Council.
2. The Director shall regularly inform the Committee of the activities of the Centre.
3. The Director shall each year draw up a general report on the activities of the Centre and, after consulting the Council, shall submit it to the Committee.



4. The Director shall be responsible for the management of the Centre.
5. The Committee shall adopt the staff regulations.

Article 6

1. The Director shall, on the basis of the work programme referred to in Article 5(1) and after consulting the Council, draw up a preliminary annual draft budget for the Centre which he shall submit, together with the opinion of the Council, to the Committee.
2. All expenditure and all revenue to cover such expenditure shall be the subject of detailed estimates for each financial year and must be entered in the budget.

The estimates of the expenditure shall include its recurrent and capital expenditure.

The estimates of the revenue shall include the contribution expected from the European Development Fund and from any other sources.

3. The draft budget finalized by the Committee shall be forwarded to the Commission of the European Communities, which shall initiate the Community procedures in force as regards the contribution requested from the European Development Fund. The budget shall be finally approved by the Committee in the light of the decision taken on the contribution from the Fund.

4. The financial year shall in principle run from 1 January to 31 December of each year.

Expenditure entered in the budget shall be authorized for a period of one financial year. However, the Director shall be authorized to carry forward appropriations which have not been used up at the end of a financial year to the following financial year only.

5. If, at the beginning of a financial year, the budget has not yet been adopted, the Director may incur current expenditure monthly, provided that such expenditure does not exceed one-twelfth of the appropriations entered under this heading in the budget for the previous financial year and that this arrangement does not have the effect of placing at his disposal appropriations in excess of one-twelfth of those provided for in the draft budget.
6. The Director shall ensure that the budget is implemented on his own responsibility and within the limit of the appropriations allocated. He shall report to the Committee on the administration of the budget.
7. The expenditure of the Centre shall be effected in accordance with the provisions of the Financial Regulations adopted by the Committee.
8. The Committee shall appoint an auditor.

The task of the auditor shall be to audit the books and the cash of the Centre, to verify that the inventories and balance sheets have been drawn up in a regular manner and in good faith and to ensure that the information given regarding the accounts of the Centre is correct.

The purpose of the audit, which shall be based on records and, if necessary, performed on the spot, shall be to establish that all revenue has been received and all expenditure incurred in a lawful and regular manner and that the financial management has been sound.

After the close of each financial year the auditor shall draw up a report to the Committee on the manner in which he has carried out his task.

On the basis of this report and the balance sheet for the financial year, the Committee shall give the Director a discharge in respect of the implementation of the budget.

#### Article 7

Members of the Council, the Director, the staff and all other persons participating in the activities of the Centre shall be bound, even after their duties have ceased, not to disclose information of the kind covered by the obligation of professional secrecy.

#### Article 8

Protocol No 5 on Privileges and Immunities annexed to the Convention shall apply to the staff of the Centre as provided for in Article 1 of the said Protocol.

#### Article 9

These Statutes may be amended by the Council of Ministers on the recommendation of the Committee of Ambassadors.

Article 10

Article 91 of the Convention shall apply to the Centre.

Article 11

The ACP States, the Member States and the Community shall, each for their own part, take the measures necessary to implement this Decision.

Article 12

This Decision shall enter into force on 16 July 1976.

Done at Brussels, 14 July 1976

For the ACP-EEC Council of Ministers

The President

(s.) KING



DECISION No 3/76 OF THE ACP-EEC COUNCIL OF MINISTERS

OF 14 JULY 1976

derogating from the concept of "originating products"  
to take account of the special situation of Mauritius  
with regard to certain products of the textile industry

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THE ACP-EEC COUNCIL OF MINISTERS,

Having regard to the ACP-EEC Convention of Lomé signed on  
28 February 1975, hereinafter called "the Convention", and  
in particular Article 9(2) thereof,

Whereas Article 27 of Protocol No 1 to the Convention, concerning the definition of the concept of "originating products" and methods of administrative co-operation, provides for derogations from the rules of origin, notably to facilitate the development of existing industries or the creation of new industries;

Whereas the ACP States have submitted a request from the Government of Mauritius for a two-year derogation from the definition set out in the said Protocol for textile products manufactured in that State; whereas a one-year derogation which could be extended for a further year if necessary should also satisfy this request;

Whereas the Customs Co-operation Committee has adopted a report on the said request, in accordance with Article 27 of Protocol No 1;

Whereas in order to take account of the special situation of Mauritius and to enable the industrial sectors concerned to set up new industries which necessitate derogations from the said Protocol for a period of not more than two years, provision should be made for a derogation from the definition set out in the said Protocol;

Whereas the quantity covered by the derogation should be split up among the Member States of destination,

HAS DECIDED AS FOLLOWS:

Article 1

By way of derogation from the special provisions of List A in Annex II to Protocol No 1 textile products manufactured in Mauritius and falling within tariff heading ex 55.09 "unbleached woven fabrics of cotton" shall be considered as originating in Mauritius under the conditions set out below.

Article 2

This derogation shall cover a quantity of 832 tonnes of unbleached woven fabrics of cotton falling within tariff heading ex 55.09 imported into the Community between 1 August 1976 and 31 July 1977, this quantity being allocated as follows:

	(in tonnes)
Germany	224.64
Benelux	83.2
France	158.08
Italy	116.48
Denmark	58.24
Ireland	8.32
United Kingdom	183.04.

Article 3

Movement certificates EUR 1 issued pursuant to this Decision shall be endorsed with one of the following phrases:

- "marchandises originaires en vertu de la décision no 3 /76 du Conseil des Ministres ACP-CEE"



- "Ursprungswaren gemäss Beschluss Nr. 3 /76 des AKP-EWG Ministerrates"
- "merci originarie in virtù della decisione N. 3 /76 del Consiglio dei Ministri ACP-CEE"
- "goederen van oorsprong uit hoofde van Besluit nr. 3 /76 van de ACS-EEG-Raad van Ministers"
- "originating products by virtue of Decision No 3 /76 of the ACP-EEC Council of Ministers"
- "varer med oprindelsesstatus i henhold til AVS-~~EF~~<sup>o</sup>-ministerrådets afgørelse nr. 3 /76".

This endorsement shall be entered under the heading "Remarks".

#### Article 4

Mauritius shall ensure that exports to each of the Member States do not exceed the quantities stipulated in Article 2.

The competent authorities of Mauritius shall forward to the Commission every three months a statement of the quantities in respect of which movement certificates EUR 1 have been issued pursuant to this Decision, indicating the Member States of destination.

#### Article 5

The ACP States, the Member States and the Community shall each take the measures required to implement this Decision.

Article 6

This Decision shall enter into force on 1 August 1976.

It shall be applicable until 31 July 1977. The ACP-EEC Council of Ministers may decide to extend it until 31 July 1978 should examination reveal that this is necessary.

Done at Brussels, 14 July 1976  
For the ACP-EEC Council of Ministers  
The President

(s.) KING



DECISION No 4/76 OF THE ACP-EEC COUNCIL OF MINISTERS  
OF 14 JULY 1976

approving the accession  
of the Republic of Surinam  
to the ACP-EEC Convention of Lomé

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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,

Whereas on 12 March 1976 the Republic of Surinam submitted a request for accession to the ACP-EEC Convention of Lomé, and whereas this request was brought to the attention of 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 Surinam has become independent,

HAS DECIDED AS FOLLOWS:

Article 1

The request for accession to the ACP-EEC Convention of Lomé by the Republic of Surinam is hereby approved, in accordance with the arrangements to be laid down by the European Economic Community and the Republic of Surinam.

Article 2

This Decision shall enter into force on 16 July 1976.

Done at Brussels, 14 July 1976  
For the ACP-EEC Council of Ministers  
The President

(s.) KING

DECISION No 5/76 OF THE ACP-EEC COUNCIL OF MINISTERS  
OF 14 JULY 1976

approving the accession  
of the Republic of Seychelles  
to the ACP-EEC Convention of Lomé

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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,

Whereas on 10 June 1976 the Republic of Seychelles submitted a request for accession to the ACP-EEC Convention of Lomé, and whereas this request was brought to the attention of 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 Seychelles has become independent,

HAS DECIDED AS FOLLOWS:

Article 1

The request for accession to the ACP-EEC Convention of Lomé by the Republic of Seychelles is hereby approved, in accordance with the arrangements to be laid down by the European Economic Community and the Republic of Seychelles.

Article 2

This Decision shall enter into force on 16 July 1976.

Done at Brussels, 14 July 1976  
For the ACP-EEC Council of Ministers  
The President

(s.) KING

DECISION No 6/76 OF THE ACP-EEC COUNCIL OF MINISTERS  
OF 14 JULY 1976

approving the accession  
of the Comoro State  
to the ACP-EEC Convention of Lomé

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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,



Whereas on 21 November 1975 the Comoro State submitted a request for accession to the ACP-EEC Convention of Lomé, and whereas this request was brought to the attention of 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 Comoro State has become independent,

HAS DECIDED AS FOLLOWS:

Article 1

The request for accession to the ACP-EEC Convention of Lomé by the Comoro State is hereby approved, in accordance with the arrangements to be laid down by the European Economic Community and the Comoro State.

Article 2

This Decision shall enter into force on 16 July 1976.

Done at Brussels, 14 July 1976  
For the ACP-EEC Council of Ministers  
The President

(s.) KING

DECISION No 7/76 OF THE ACP-EEC COUNCIL OF MINISTERS  
OF 14 JULY 1976

approving the request  
by the Democratic Republic of Sao Tomé and Príncipe  
for accession to the  
ACP-EEC Convention of Lomé

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THE ACP-EEC COUNCIL OF MINISTERS,

Having regard to the ACP-EEC Convention of Lomé signed on  
28 February 1975, and in particular Article 90 thereof,

Whereas on 16 August 1975 the Democratic Republic of Sao Tomé and Príncipe submitted a request for accession to the ACP-EEC Convention of Lomé;

Whereas the economic structure and production of the Democratic Republic of Sao Tomé and Príncipe are comparable with those of the ACP States,

HAS DECIDED AS FOLLOWS:

Article 1

The request for accession to the ACP-EEC Convention of Lomé submitted by the Democratic Republic of Sao Tomé and Príncipe is hereby approved. That State may accede to the Convention by concluding an agreement with the European Economic Community.

Article 2.

This Decision shall enter into force on 16 July 1976.

Done at Brussels, 14 July 1976  
For the ACP-EEC Council of Ministers  
The President

(s.) KING

DECISION No 8/76 OF THE ACP-EEC COUNCIL OF MINISTERS  
OF 14 JULY 1976

approving the request  
by Papua New Guinea  
for accession to the  
ACP-EEC Convention of Lomé

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THE ACP-EEC COUNCIL OF MINISTERS,

Having regard to the ACP-EEC Convention of Lomé signed on  
28 February 1975, and in particular Article 90 thereof,

Whereas on 3 December 1975 Papua New Guinea submitted a request for accession to the ACP-EEC Convention of Lomé;

Whereas the economic structure and production of Papua New Guinea are comparable with those of the ACP States,

HAS DECIDED AS FOLLOWS:

Article 1

The request for accession to the ACP-EEC Convention of Lomé submitted by Papua New Guinea is hereby approved. That State may accede to the Convention by concluding an agreement with the European Economic Community.

Article 2

This Decision shall enter into force on 16 July 1976.

Done at Brussels, 14 July 1976  
For the ACP-EEC Council of Ministers  
The President

(s.) KING

DECISION No 9/76 OF THE ACP-EEC COUNCIL OF MINISTERS  
OF 14 JULY 1976

approving the request  
by the Republic of Cape Verde  
for accession to the  
ACP-EEC Convention of Lomé

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THE ACP-EEC COUNCIL OF MINISTERS,

Having regard to the ACP-EEC Convention of Lomé signed on  
28 February 1975, and in particular Article 90 thereof,

Whereas on 11 October 1975 the Republic of Cape Verde submitted a request for accession to the ACP-EEC Convention of Lomé;

Whereas the economic structure and production of the Republic of Cape Verde are comparable with those of the ACP States,

It is DECIDED AS FOLLOWS:

Article 1

The request for accession to the ACP-EEC Convention of Lomé submitted by the Republic of Cape Verde is hereby approved. That State may accede to the Convention by concluding an agreement with the European Economic Community.

Article 2

This Decision shall enter into force on 16 July 1976.

Done at Brussels, 14 July 1976  
For the ACP-EEC Council of Ministers  
The President

(s.) KING

DECISION No 10/76 OF THE ACP-EEC COUNCIL OF MINISTERS  
OF 15 JULY 1976

delegating to  
the Committee of Ambassadors  
the authority to adopt the fiscal and customs arrangements  
applicable in the ACP States  
to contracts financed by the Community

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THE ACP-EEC COUNCIL OF MINISTERS,

Having regard to the ACP-EEC Convention of Lomé, signed on  
28 February 1975 and in particular Articles 60 and 75 thereof,



Whereas the fiscal and customs arrangements applicable in the ACP States to contracts financed by the Community are to be adopted by a decision of the Council of Ministers at its first meeting following the date of entry into force of the Convention of Lomé;

Whereas, pending this decision of the Council of Ministers, the arrangements in force as at 31 January 1975 in the ACP States parties to the Convention signed at Yaoundé on 29 July 1969 will continue to apply; whereas the remaining ACP States are to allow the Community to benefit from the most favourable arrangements which they grant to international organizations;

Whereas the Council of Ministers was unable to adopt the said decision at its first meeting; whereas the entry into force of that decision should not, however, be deferred until a later meeting;

Whereas it is therefore necessary for the Council to delegate to the Committee of Ambassadors the authority to adopt this decision as soon as possible,

HAS DECIDED AS FOLLOWS:

Article 1

The Council of Ministers hereby delegates to the Committee of Ambassadors the authority to adopt, in accordance with Article 60 of the Convention of Lomé, the decision on the fiscal and customs arrangements applicable in the ACP States to contracts financed by the Community.

Article 2

The ACP States, the Member States and the Community shall be bound, each to the extent to which they are concerned, to take the necessary steps to implement this decision.

Article 3

This Decision shall enter into force on 16 July 1976.

Done at Brussels, 15 July 1976  
For the ACP-EEC Council of Ministers  
The President

(s.) KING



DECISION No 11/76 OF THE ACP-EEC COUNCIL OF MINISTERS  
OF 15 JULY 1976

on the delegation of certain powers  
to the ACP-EEC Committee of Ambassadors

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THE ACP-EEC COUNCIL OF MINISTERS,

Having regard to the ACP-EEC Convention of Lomé signed on  
28 February 1975, and in particular Article 75 thereof,

Whereas the Convention makes provision for only one ordinary meeting of the Council of Ministers each year;

Whereas application of the Convention raises multifarious problems which must be resolved in the interval between two ordinary meetings;

Whereas, although the possibility of extraordinary meetings of the Council of Ministers is provided for in the Convention, it is nevertheless necessary for the sake of simplicity and speed for the Council to delegate certain of its powers to the Committee of Ambassadors in accordance with Article 75;

Whereas, however, in spite of such delegation of powers, the Council of Ministers should itself be able to discuss matters which have been delegated if the Community or the ACP State deem it necessary,

HAS DECIDED AS FOLLOWS:

#### Article 1

1. Without prejudice to any other delegations of powers granted in individual cases, the Council shall delegate to the Committee of Ambassadors the powers referred to in Article 2(2)(b), Articles 5, 6, 8, 10, 11, 12 and 17(4), Article 23(1), Article 48 (3), Articles 57, 64 and 68, Article 74(9) and Article 88 of the Convention, Article 27 of Protocol No 1, Article 8 of Protocol No 3, Article 3 of Protocol No 4, Article 9 of Protocol No 5, paragraph 2(d) of Protocol No 7, and Annex II and the first sentence of Annex V to the Final Act.

2. The Convention, and in particular Article 70(2) and (3) and Article 73(1) thereof, and Articles 11 to 14 of the Rules of Procedure of the Council of Ministers shall apply to acts adopted by the Committee of Ambassadors on the basis of this Article.
3. At the request of the Community or of the ACP States, any item concerning an issue in respect of which power was delegated to the Committee of Ambassadors by the Council of Ministers pursuant to paragraph 1 and which is placed on the provisional agenda of a meeting of the Committee may be struck off that agenda and included on the agenda of the Council of Ministers.
4. The Council of Ministers may, if the Community or the ACP States deem it necessary, decide to discuss matters which have been the subject of a delegation of powers.

Article 2

The ACP States, the Member States and the Community shall each take the measures necessary to implement this Decision.

Done at Brussels, 15 July 1976  
For the ACP-EEC Council of Ministers  
The President

(s.) KING



II - INFORMATION ABOUT THE ASSOCIATION





AGREEMENT  
ON CANE SUGAR  
IN THE FORM OF AN EXCHANGE OF LETTERS  
BETWEEN  
THE EUROPEAN ECONOMIC COMMUNITY  
AND  
BARBADOS <sup>(1)</sup>

Following the conclusion of the negotiations referred to in Article 5(4) of Protocol No 3 on ACP sugar annexed to the ACP-EEC Convention of Lomé, the Commission, on behalf of the European Economic Community, and the ACP States referred to in the aforesaid Protocol have agreed as follows:

For the period from 1 April 1976 to 30 June 1977 the guaranteed prices referred to in Article 5(4) of the Protocol shall be:

- (a) for raw sugar, 26.70 units of account per 100 kilogrammes;
- (b) for white sugar, 34.14 units of account per 100 kilogrammes.

These prices shall refer to sugar of standard quality as defined in Community rules, unpacked and cif European ports of the Community.

The guaranteed price for raw sugar for 1976/1977 contains a premium of 0.48 units of account per 100 kilogrammes of white sugar which will be recoverable from the exporting state concerned to the extent that the price realized on sale from intervention is less than the guaranteed price for raw sugar.

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<sup>(1)</sup> A similar exchange of letters has taken place mutatis mutandis between the Community and the following ACP States: The People's Republic of the Congo, Fiji, the Republic of Guyana, Jamaica, the Democratic Republic of Kenya, the Republic of Madagascar, the Republic of Malawi, Mauritius, the Kingdom of Swaziland, the United Republic of Tanzania, Trinidad and Tobago, the Republic of Uganda.

I should be obliged if you would kindly acknowledge receipt of this letter and confirm that this letter and your reply constitute an Agreement between your Government and the Community.

Modtag, Excellence, forsikringen om min mest udmærkede højagtelse.

Genehmigen Sie, Exzellenz, den Ausdruck meiner ausgezeichnetsten Hochachtung.

Please accept, Your Excellency, the assurance of my highest consideration.

Je vous prie d'agr er, Excellence, les assurances de ma tr s haute consid ration.

La prego di gradire, Eccellenza, i sensi della mia alta considerazione.

Gelieve, Excellentie, de gevoelens van mijn bijzondere hoogachting te willen aanvaarden.

For R det for De europ iske F llesskaber  
Im Namen des Rates der Europ ischen Gemeinschaften  
For the Council of the European Communities  
Au nom du Conseil des Communaut s europ ennes  
A nome del Consiglio delle Comunit  Europee  
Namens de Raad der Europese Gemeenschappen

I have the honour to acknowledge receipt of your letter which reads as follows:

"Following the conclusion of the negotiations referred to in Article 5(4) of Protocol No 3 on ACP sugar annexed to the ACP-EEC Convention of Lomé, the Commission, on behalf of the European Economic Community, and the ACP States referred to in the aforesaid Protocol have agreed as follows:

For the period from 1 April 1976 to 30 June 1977 the guaranteed prices referred to in Article 5(4) of the Protocol shall be:

- (a) for raw sugar, 26.70 units of account per 100 kilogrammes;
- (b) for white sugar, 34.14 units of account per 100 kilogrammes.

These prices shall refer to sugar of standard quality as defined in Community rules, unpacked and cif European ports of the Community.

The guaranteed price for raw sugar for 1976/1977 contains a premium of 0.48 units of account per 100 kilogrammes of white sugar which will be recoverable from the exporting state concerned to the extent that the price realized on sale from intervention is less than the guaranteed price for raw sugar.

I should be obliged if you would kindly acknowledge receipt of this letter and confirm that this letter and your reply constitute an Agreement between your Government and the Community."

I have the honour to confirm the agreement of my Government with the foregoing.

Please accept, Sir, the assurance of my highest consideration.

Modtag, hr; Formand, forsikringen om min udmerkede h/jagtelse.

Genehmigen Sie, Herr Präsident, den Ausdruck meiner ausgezeichnetsten Hochachtung.

Veillez agréer, Monsieur le Président, l'assurance de ma très haute considération.

Voglia gradire, Signor Presidente, il segno della mia più profonda considerazione.

Gelieve, Mijnheer de Voorzitter, de verzekering van mijn zeer bijzondere hoogachting te aanvaarden.

For the Government of Barbados  
For regeringen for Barbados  
Im Namen der Regierung von Barbados  
Pour le Gouvernement de la Barbade  
Per il Governo delle Barbados  
Namens de Regering van Barbados

REGULATION (EEC) No 3330/74 OF THE COUNCIL  
of 19 December 1974  
on the common organization of the market in sugar

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 42, 43 and 227 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament;

Having regard to the Opinion of the Economic and Social Committee;

Whereas the basic provisions concerning the common organization of the market in sugar have been amended many times since their adoption; whereas these provisions must again be thoroughly amended to take account, in particular, of the forthcoming expiry of the transitional provisions; whereas, therefore, it is essential to redraft the basic provisions;

Whereas the operation and development of the common market in agricultural products must be accompanied by the establishment of a common agricultural policy to include, in particular, a common organization of the agricultural markets, which may take various forms, depending on the product concerned;

Whereas, to ensure that the necessary guarantees in respect of employment and standards of living are maintained for Community growers of sugar beet and sugar cane, provision should be made for measures to stabilize the market in sugar; whereas, to this end, a target price and an intervention price for white sugar should be fixed each year for the Community area having the largest surplus; whereas derived intervention prices should be fixed each year for other Community areas, taking account

of regional price variations arising under natural conditions of price formation on the market given a normal harvest, and also of the processing stage; whereas the above objective could be attained by making provision for buying in by intervention agencies at the intervention prices; whereas, moreover, a compensation system for storage costs for sugar produced from raw materials (including molasses) of Community origin could serve the same purpose;

Whereas it is necessary to ensure that the regulation of the sugar market influences sugar beet and sugar cane production; whereas, for this reason, it is advisable to fix minimum prices which must be observed when sugar manufacturers buy beet, to lay down, while complying, *inter alia*, with rules of competition, Community outline provisions governing contractual relations between buyers and sellers of beet, and to adopt provisions appropriate to this end in respect of sugar cane producers;

Whereas the creation of a single Community market for sugar always involves, apart from a single price system, the introduction of a common trading system at the external frontiers of the Community; whereas a trading system including import levies and export refunds, combined with intervention measures also serves to stabilize the Community market by preventing, in particular, price fluctuations on the world market from affecting prices ruling within the Community; whereas, therefore, provision should be made for the charging of a levy on imports from third countries and the payment of a refund on exports to such countries which would, in either case, cover the difference between prices ruling inside and outside the Community when world market prices are lower than the Community prices;

Whereas, in addition to the above system and to the extent necessary for its proper working, provision

should be made for regulating or, when the situation on the market so requires, prohibiting the use of inward processing arrangements;

Whereas, in the event of a shortage on the world market pushing up world market prices to a level higher than that of the Community prices, or in the event of difficulties in the normal supplies to the entire Community or to one of its regions, appropriate provisions should be laid down in order to avoid in good time a situation where regional surpluses are exported to third countries while an abnormal rise in Community prices makes it impossible to continue to guarantee supplies to consumers at reasonable prices; whereas, moreover, provisions should be laid down with a view to introducing a system whereby each manufacturer must hold a minimum stock, which is one of the most effective ways to achieve this objective;

Whereas, in order to help guarantee supplies to the entire Community or to one of its regions it would seem advisable to lay down provisions to adopt under certain conditions, appropriate intervention measures;

Whereas it must be made possible for the competent authorities to keep a constant watch on movements in trade with third countries in order to enable them to assess trends thereof and, where appropriate, apply such measures provided for in this Regulation as may prove necessary; whereas, to this end, provision should be made for a system of import and export licences the issue of which is conditional on the provision of security by way of guarantees that the operation for which the licence is being requested will be carried out;

Whereas the levy system makes it possible to dispense with all other protective measures at the external frontiers of the Community; whereas, however, the common price and levy machinery may in exceptional circumstances prove defective; whereas in such cases, so as not to leave the Community market without defence against disturbances which may arise therefrom after the import barriers which existed previously have been removed, the Community should be enabled swiftly to take all necessary measures;

Whereas in recent years production in the Community as originally constituted has been maintained at an acceptable level in relation to consumption; whereas even in those regions which are least suitable for beet cultivation production has remained at levels little short of the basic quotas; whereas thanks to the existence of a measure of

competition, particularly in respect of sugar produced outside the basic quotas, there has been considerable regional specialization; whereas, because production outside the quotas has been able to develop freely, it has been able to benefit to some extent from world market prices; whereas, accordingly, the system of production quotas is likely to enable the Community to cope with surpluses as well as deficits; whereas, therefore, and in view of the new situation arising from the accession of new Member States to the Community, this system can be retained for a specified period provided that certain adjustments are made to it in the light of experience, particularly as regards the introduction of certain rules in respect of sugar produced outside the quotas;

Whereas it is desirable to maintain the other basic provisions concerning the Community guarantees in respect of prices and sales which are limited or withdrawn in the case of quantities manufactured over and above the basic quota depending on whether or not these quantities exceed a certain ceiling, and also the provisions concerning delivery contracts for sugar beet and sugar cane and the rules of the carry-forward system;

Whereas the establishment of a single market based on a common price system would be jeopardized by the granting of certain aids; whereas, therefore, the provisions of the Treaty which allow the assessment of aids granted by Member States and the prohibition of those which are incompatible with the common market should be made to apply to sugar;

Whereas, however, Italian beet and sugar production is adversely affected owing to climatic reasons and, more particularly as regards beet production, by difficulties arising from the application of modern production techniques; whereas, therefore, provision should be made for the temporary granting by Italy of adaptation aid to the producers concerned;

Whereas the transition to the system established by this Regulation must be effected as smoothly as possible; whereas, to this end, certain transitional measures may prove necessary and the same need may arise at each change-over from one marketing year to the next; whereas, therefore, provision should be made for the possibility of adopting appropriate measures;

Whereas intervention is essential if the sugar price is to be guaranteed; whereas, in view of the special importance of sugar production for the economy of the French overseas departments, provisions concerning the Guarantee Section of the European

Agricultural Guidance and Guarantee Fund must be made to apply to these departments;

Whereas the common organization of the market in sugar must, at the same time, take appropriate account of the objectives set out in Articles 39 and 110 of the Treaty;

Whereas, in order to facilitate implementation of the proposed measures, a procedure should be provided for establishing close cooperation between Member States and the Commission within a management committee;

Whereas Council Regulation No 1009/67/EEC<sup>(1)</sup> of 18 December 1967 on the common organization of the market in sugar, as last amended by Regulation (EEC) No 2476/74<sup>(2)</sup>, should be repealed,

HAS ADOPTED THIS REGULATION:

*Article 1*

1. The common organization of the market in sugar shall comprise a price and trading system and cover the following products:

CCT heading No	Description of goods
(a) 17.01	Beet sugar and cane sugar, solid
(b) 12.04	Sugar beet, whole or sliced, fresh, dried or powdered; sugar cane
(c) 17.03	Molasses, whether or not decolourized
(d) 17.02 C to F	Other sugars (but not including lactose and glucose); sugar syrups (but not including lactose syrup and glucose syrup); artificial honey (whether or not mixed with natural honey); caramel
17.05 C	Flavoured or coloured sugars (but not including lactose and glucose) syrups (but not including lactose syrup and glucose syrup) and molasses, but not including fruit juices containing added sugar in any proportion
(e) 23.03 B 1	Beet-pulp, bagasse and other waste of sugar manufacture

<sup>(1)</sup> OJ No 308, 18. 12. 1967, p. 1.

<sup>(2)</sup> OJ No L 264, 1. 10. 1974, p. 70.

2. For the purposes of this Regulation:

- 'white sugar' means sugar falling within heading No 17.01 of the Common Customs Tariff and containing, in the dry state, 99.5% or more by weight of sucrose determined by the polarimetric method,
- 'raw sugar' means sugar falling within heading No 17.01 of the Common Customs Tariff and containing, in the dry state, less than 99.5% by weight of sucrose determined by the polarimetric method.

TITLE I

Prices

*Article 2*

1. A target price for white sugar shall be fixed each year for the Community area having the largest surplus. This target price shall be valid for white sugar of a standard quality, unpacked, ex-factory, loaded on to the means of transport chosen by the purchaser.

2. Before 1 August of each year the target price valid for the sugar year beginning on 1 July of the following calendar year shall be fixed in accordance with the procedure laid down in Article 43 (2) of the Treaty.

The same procedure shall be followed to determine the following:

- the standard quality for white sugar and,
- at the same time as the target price, the Community area having the largest surplus.

*Article 3*

1. An intervention price for white sugar shall be fixed each year for the Community area having the largest surplus.

2. Derived intervention prices shall be fixed for other areas, taking account of the regional variations which, given a normal harvest and free movement of sugar, might be expected to occur in the price of sugar under natural conditions of price formation.

3. The intervention prices referred to in paragraphs 1 and 2 shall be valid for white sugar of the standard quality to which the target price applies, unpacked, ex-factory, loaded on to the means of transport chosen by the purchaser.

4. The derived intervention price for the French overseas departments shall, however, be valid for sugar fob and stowed aboard a seagoing vessel at the port of embarkation.



For those departments, intervention prices shall also be fixed for raw sugar of a standard quality. These prices shall be derived from the intervention prices for white sugar fixed for those departments, allowance being made for a uniform processing margin and a standard yield.

5. The intervention price for the area having the largest surplus shall be fixed at the same time as the target price in accordance with the procedure laid down in Article 43 (2) of the Treaty.

6. The Council, acting by a qualified majority on a proposal from the Commission, shall determine the following:

- the standard quality for raw sugar and,
- before 1 August of each year for the following marketing year, the areas referred to in paragraph 2 and the derived intervention prices valid for those areas.

The derived prices fixed for any given marketing year for the French departments of Guadeloupe and Martinique shall apply to their sugar production during the calendar year in which that marketing year begins.

#### Article 4

1. Each year, for each beet-sugar producing area for which an intervention price is fixed:

- a minimum price for beet shall be fixed in accordance with paragraphs 2, 3 and 4,
- a minimum price for beet outside the basic quota shall be fixed in accordance with Article 28.

These prices shall apply to a specified delivery stage and a specified standard quality.

2. The minimum price for beet shall be established on the basis of the intervention price for white sugar in the area in question and of fixed values for the Community representing:

- the processing margin,
- the yield,
- undertakings' receipts from sales of molasses and,
- where appropriate, costs incurred in delivering beet to undertakings.

3. At the same time as the target price is fixed:

— the minimum price for beet referred to in the first indent of paragraph 1 for the Community area having the largest surplus shall be fixed, and

— the delivery stage and standard quality for beet shall be determined in accordance with the procedure laid down in Article 43 (2) of the Treaty.

4. The Council, acting by a qualified majority on a proposal from the Commission, shall fix, at the same time as the derived intervention prices, the minimum price for beet referred to in the first indent of paragraph 1 for each of the other areas.

#### Article 5

1. Subject to Article 29 and the provisions adopted pursuant to Article 31 (3), sugar manufacturers buying beet:

- (a) suitable for processing into sugar, and
- (b) intended for processing into sugar,

shall be required to pay at least a minimum price for sugar beet, adjusted by price increases or reductions to allow for deviations from the standard quality.

2. The minimum price referred to in paragraph 1 shall correspond to:

- (a) the minimum price for beet, in the case of beet to be processed into the sugar covered by Article 30 (1) (a);
- (b) the minimum price for beet outside the basic quota, in the case of beet to be processed into the sugar covered by Article 30 (1) (b).

3. Detailed rules for the application of this Article shall be adopted and the price increases and reductions fixed in accordance with the procedure laid down in Article 36.

#### Article 6

The Council, acting by a qualified majority on a proposal from the Commission, shall adopt outline provisions in respect of the general conditions governing purchase, delivery, acceptance and payment to which agreements within the trade at Community, regional or local level and contracts concluded between buyers and sellers of beet must conform.

#### Article 7

1. Conditions for purchasing sugar cane shall be governed by agreements within the trade between sugar-cane producers and sugar manufacturers.

... where no agreements within the trade exist, conditions of purchase, and in particular, the minimum proportion of the intervention price for cane sugar to be paid by sugar manufacturers to sellers of sugar cane, shall be determined in accordance with the procedure laid down in Article 36.

#### Article 8

1. Subject to Article 31 (2), storage costs for white sugar, raw sugar and certain syrups produced prior to the crystallizing stage, manufactured from beet or cane harvested in the Community, shall be reimbursed at a flat rate by the Member States.

Member States shall charge a levy on each sugar manufacturer:

- per unit of weight of sugar produced, and
- per unit of weight of the syrups referred to in the preceding subparagraph and produced and marketed in the natural state.

The amount of the reimbursement shall be the same for the entire Community. The same rule shall apply to the levy.

2. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general rules for the application of paragraph 1.

The amount of the reimbursement and of the levy shall be fixed each year in accordance with the procedure laid down in Article 36. Other rules for the application of this Article shall be adopted in accordance with the same procedure.

#### Article 9

1. Throughout the marketing year intervention agencies designated by sugar-producing Member States shall be required, under conditions to be laid down in accordance with paragraphs 5 and 6, to buy in any white sugar or raw sugar offered to them which has been manufactured from beet or cane harvested in the Community.

Intervention agencies shall buy in at the intervention price valid for the area in which the sugar is located at the time of purchase. If the quality of the sugar deviates from the standard quality for which the intervention price was fixed, that price shall be adjusted by means of price increases and reductions.

2. It may be decided to grant denaturing premiums for sugar rendered unfit for human consumption.

3. Appropriate measures shall be taken in the event of difficulties arising in marketing sugar produced in the French overseas departments.

4. It may be decided to grant production refunds on the products listed in Article 1 (1) (a), and the syrups listed in Article 1 (1) (d), used in the manufacture of certain products of the chemical industry.

5. The Council, acting by a qualified majority on a proposal from the Commission, shall determine the following:

- general rules for the application of the above paragraphs,
- the intervention prices for raw beet sugar,
- the products of the chemical industry referred to in paragraph 4.

6. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 36 and shall deal in particular with the following:

- the minimum quality and quantity requirements on intervention,
- the scales of price increases and reductions applicable on intervention,
- procedures and conditions for taking-over by intervention agencies,
- conditions for granting denaturing premiums and the amount of such premiums,
- conditions for granting production refunds and the amount of such refunds.

#### Article 10

1. In order to help guarantee supplies to the entire Community or to one of its regions, the Council, acting by a qualified majority on a proposal from the Commission, shall decide upon the conditions under which special intervention measures may be taken where Article 17 is applied.

However, such measures may not result in Community sugar manufacturers being obliged to sell sugar to intervention agencies.

2. The nature and application of such intervention measures shall be decided upon in accordance with the procedure laid down in Article 36.

### Article 11

1. Intervention agencies may only sell sugar at a price which is higher than the intervention price valid for the area in which sugar is stored.

It may, however, be decided that the intervention agencies should sell sugar at a price equal to or less than the intervention price in question if the sugar is intended:

- for animal feeding, or
- for export, either in the natural state or following processing into the products listed in Annex II to the Treaty or into the goods listed in Annex I to this Regulation.

2. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general rules for the sale of products which have been subject to intervention measures.

3. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 36.

## TITLE II

### Trade with third countries

#### Article 12

1. Imports or exports into or out of the Community of the products listed in Article 1 (1) (a), (b), (c) and (d) shall be made conditional upon the submission of an import or export licence issued by Member States to any applicant irrespective of the place of his establishment in the Community.

Where the levy or refund is fixed in advance, the advance fixing shall be noted on the licence, which serves as a supporting document for such advance fixing.

The licence shall be valid throughout the Community.

The issue of a licence shall be conditional on the lodging of a deposit guaranteeing that importation or exportation will be effected during the period of validity of the licence; this deposit shall be forfeited in whole or in part if the transaction is not effected, or is only partially effected, within that period.

2. The system described in this Article may be extended to the products listed in Article 1 (1) (e) in accordance with the procedure laid down in Article 36. The period of validity of licences and other detailed rules for the application of this Article,

which may include a time limit for the issue of licences, shall be adopted in accordance with the same procedure.

#### Article 13

1. Each year a Community threshold price shall be fixed for white sugar, raw sugar and molasses.

2. The threshold price for white sugar shall be the same as the target price for the Community area having the largest surplus plus charges, calculated at a flat rate, for transport from that area to the most distant deficit area in the Community. It shall apply to the same standard quality as the target price.

3. The threshold price for raw sugar shall be derived from the threshold price for white sugar, taking account of a standard processing margin and a standard yield. It shall apply to the same standard quality as the intervention prices for raw sugar.

4. The threshold price for molasses shall be fixed, so that receipts from sales of molasses may reach the level of undertakings' receipts which are taken into account pursuant to Article 4 when minimum prices for beet are being fixed. It shall apply to a standard quality.

5. The Council, acting by a qualifying majority on a proposal from the Commission, shall fix the threshold prices at the same time as the derived intervention prices.

6. The standard quality for molasses shall be determined in accordance with the procedure laid down in Article 36.

#### Article 14

1. A cif price shall be calculated for a Community frontier-crossing point for white sugar, raw sugar and molasses. This price shall be calculated on the basis of the most favourable purchasing opportunities for each product on the world market, based on quotations or prices on that market, corrected to allow for any deviations from the standard quality for which the threshold price is fixed.

2. Where free quotations on the world market are not a determining factor for the offer price and where that price is lower than world market prices, a special

cif price calculated on the basis of the offer price shall be substituted, solely in respect of the imports in question, for the cif price.

3. The Council, acting by a qualified majority on a proposal from the Commission, shall determine the frontier crossing point concerned.

4. Detailed rules for calculating the cif prices shall be adopted in accordance with the procedure laid down in Article 36. The corrective amounts referred to in paragraph 1 shall be fixed in accordance with the same procedure.

#### Article 15

1. A levy shall be charged on imports of the products listed in Article 1 (1) (a), (b), (c) and (d).

2. The levy on white sugar, raw sugar and molasses shall be equal to the threshold price less the cif price.

3. The levy on raw sugar shall, where appropriate, be adjusted according to the yield. The levy on white sugar shall be charged on imports of raw sugar for purposes other than refining if that levy is higher than the levy applicable to raw sugar. If the levy on white sugar is higher than the levy on raw sugar, raw sugar for refining shall be subject to customs control or to an administrative inspection offering equivalent guarantees.

4. The levy of the products listed in Article 1 (1) (b) shall be calculated as a flat rate on the basis of the sucrose content of each of these products and the levy on white sugar.

For purposes other than the manufacture of sugar, partial exemption from the import levy may be allowed as a temporary measure in special instances in accordance with the procedures laid down in Article 36.

5. The levy on the products listed in Article 1 (1) (d) shall be calculated, where appropriate, as a flat rate on the basis of the sucrose content (including other sugars expressed as sucrose) of the product concerned and the levy on white sugar.

The levies applicable to maple sugar and maple syrup falling within heading No 17.02 of the Common Customs Tariff shall, however, be limited to the amount resulting from application of the duty bound within GATT.

6. Detailed rules for the application of this Article, including the margin within which variations in the factors used for calculating the levy do not require any adjustment of the levy, shall be adopted in accordance with the procedure laid down in Article 36.

7. The levies referred to in this Article shall be fixed by the Commission.

#### Article 16

1. The levy to be charged shall be that applicable on the day of importation.

2. The levy may, however, be fixed in advance for imports of the products listed in Article 1 (1) (a) and (c).

In that event, the levy applicable on the day on which the application for the licence is lodged, adjusted on the basis of the threshold price in force on the day of importation, shall be applied to imports to be effected during the validity of the licence, provided that the party concerned so requests when applying for the licence and, in any case, before 1 p.m. Any premium to be added to the levy may be fixed at the same time as the levy.

3. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general rules for the application of this Article; it shall, in particular, decide upon the conditions under which advance fixing takes place and also upon the rules for fixing premiums.

4. Where the conditions referred to in paragraph 3 exist, a decision to apply the system provided for in paragraph 2 shall be taken in accordance with the procedure laid down in Article 36. Once these conditions no longer obtain, the measure shall be repealed in accordance with the same procedure.

It may be decided in accordance with the same procedure to apply the system provided for in paragraph 2 in whole or in part to each of the products listed in Article 1 (1) (d).

5. Detailed rules for advance fixing shall be adopted in accordance with the procedure laid down in Article 36.

6. Premiums shall be fixed by the Commission.

7. When examination of the market situation shows that there are difficulties due to the application of the provisions concerning the advance fixing of the levy or export refund, or that such difficulties may occur, a decision may be taken, in accordance with the procedure laid down in Article 36 to suspend the application of these provisions for the period strictly necessary.

In cases of extreme urgency, the Commission may, after examining the situation, decide on the basis of all the information available to it to suspend advance fixing for a maximum of three working days. Applications for certificates accompanied by applications for advance fixing lodged during the period of suspension shall be rejected.

#### Article 17

1. Where the entire Community or any region thereof can no longer be supplied with sugar at prices within the limit of the threshold price, provision may be made for charging a levy on exports of the product in question. This levy must be introduced when the cif price for white sugar or raw sugar is higher than the corresponding threshold price.

Save as otherwise provided by the Council in accordance with the procedure laid down in paragraph 3, the levy to be charged shall be that applicable on the day of exportation.

2. Where the cif price for white sugar or raw sugar is higher than the threshold price, it may be decided to grant a subsidy for imports of the product in question.

3. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general rules for the application of paragraphs 1 and 2.

4. Provisions corresponding to those of paragraph 1 and to the rules for its application may be adopted for the products listed in Article 1 (1) (b), (c) and (d) in accordance with the procedure laid down in Article 36.

5. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 36.

6. The levies resulting from the application of this Article shall be fixed by the Commission.

#### Article 18

1. A system of minimum stocks shall be established in order to ensure normal supplies to the entire Community or to one of its regions.

This minimum stock shall, in principle, be equal to 10% of the basic quota of each undertaking or to 10% of an undertaking's production, where its production is smaller than its basic quota.

2. The costs incurred in maintaining the minimum stock shall be taken into account when fixing the sugar prices.

3. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt implementing provisions for this Article before 1 October 1975.

#### Article 19

1. To the extent necessary to enable the products listed in Article 1 (1) (a), (c) and (d) to be exported in the natural state, or in the form of goods listed in Annex 1 to this Regulation, on the basis of quotations or prices for the products listed in Article 1 (1) (a) and (c) on the world market, the difference between those quotations or prices and prices within the Community may be covered by an export refund.

2. The refund shall be the same for the entire Community. It may be varied according to destination.

The refund shall be granted on the request of the party concerned.

The refund for raw sugar may not exceed the refund for white sugar.

When the refund is being fixed, particular account shall be taken of the need to establish a balance between the use of Community basic products in the manufacture of processed goods for export to non-member countries and the use of the products of such countries brought in under inward processing arrangements.

The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general rules for granting refunds, for fixing the amount of such refunds, and for fixing such refunds in advance.

Refunds shall be fixed at regular intervals in accordance with the procedure laid down in Article 36. Where necessary, the Commission may, at the request of a Member State or on its own initiative, alter the refunds in the intervening period.

3. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general rules applicable to refunds where these are awarded by tender.

4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 36.

5. When examination of the market situation shows that there are difficulties due to the application of the provisions concerning the advance fixing of the

retund, or that such difficulties may occur, a decision may be taken, in accordance with the procedure laid down in Article 36, to suspend the application of these provisions for the period strictly necessary.

In cases of extreme urgency, the Commission may, after examining the situation, decide on the basis of all the information available to it to suspend advance fixing for a maximum of three working days. Applications for certificates accompanied by applications for advance fixing lodged during the period of suspension shall be rejected.

#### Article 20

To the extent necessary for the proper functioning of the common organization of the market in sugar, the Council, acting by a qualified majority on a proposal from the Commission, may prohibit, in whole or in part, the use of inward processing arrangements in respect of:

- the products listed in Article 1 (1) which are intended for the manufacture of the products listed in Article 1 (1) (d);
- and, in special instances, the products listed in Article 1 (1) which are intended for the manufacture of the goods listed in Annex I.

#### Article 21

1. The general rules for the interpretation of the Common Customs Tariff and the special rules for its application shall apply to the tariff classification of products covered by this Regulation; the tariff nomenclature resulting from the application of this Regulation shall be incorporated in the Common Customs Tariff.

2. Save as otherwise provided in this Regulation or where derogation therefrom is decided upon by the Council acting by a qualified majority on a proposal from the Commission, the following shall be prohibited:

- the levying of any customs duty on the products listed in Article 1 (1) (a) to (d),
- the levying of any charge having an effect equivalent to a customs duty,
- the application of any quantitative restriction or measure having equivalent effect.

The restriction of import or export licences to a specified category of those entitled to receive them shall be one of the measures considered as having an effect equivalent to a quantitative restriction.

#### Article 22

1. If, by reason of imports or exports, the Community market in one or more of the products listed in Article 1 (1) experiences or is threatened with serious disturbances which are likely to endanger the objectives set out in Article 39 of the Treaty, appropriate measures may be applied in trade with third countries until such disturbance or threat of disturbance has ceased to exist.

The Council, acting by a qualified majority on a proposal from the Commission, shall adopt detailed rules for the application of this paragraph and define the cases in which and the limits within which Member States may take protective measures.

2. If the situation referred to in paragraph 1 arises, the Commission shall, at the request of a Member State or on its own initiative, decide upon the necessary measures; the measures shall be communicated to the Member States and shall be immediately applicable. If the Commission receives a request from a Member State, it shall take a decision thereon within 24 hours following receipt of the request.

3. The measures decided upon by the Commission may be referred to the Council by any Member State within a period of three working days following the day on which they were communicated. The Council shall meet without delay. Acting by a qualified majority, it may either amend or repeal the measures in question.

### TITLE III

#### Quota arrangements

#### Article 23

1. Articles 24 to 31 shall apply in the 1975/76 marketing year to the 1979/80 marketing year inclusive.

2. The arrangements applicable from 1 July 1980 shall be adopted by the Council before 1 January 1980 in accordance with the procedure laid down in Article 43 (2) of the Treaty.

#### Article 24

1. Member States shall allot a basic quota to each undertaking which during the 1974/75 marketing year used up its basic quota.

2. Without prejudice to the provisions adopted pursuant to paragraph 3 or 4, and taking into account, where appropriate, the second subparagraph, this basic quota shall be established by multiplying the average annual sugar output of the undertaking concerned, considered to be such pursuant to Regulation No 1009/67/EEC, during the 1968/69 to 1972/73 marketing years, hereinafter called the 'reference output', by a coefficient expressing the ratio between the basic quantity of the Member State or of one of its regions referred to in (c) of the fourth subparagraph below and the total reference output of the undertakings situated in that State or in one of the said regions.

Where the reference output of an undertaking is less than its basic quota for the 1974/75 marketing year, the quota shall be substituted for the reference output.

However, if the total reference output of all undertakings in a Member State is less than the basic quantity laid down by Regulation No 1009/67/EEC, the Member State concerned may allocate to each undertaking a basic quota different from that resulting from the application of the preceding subparagraphs where this is justified by the trend in the output figures of the undertaking concerned during the 1968/69 to 1974/75 marketing years. This basic quota may not be lower than the volume of output achieved by the undertaking in the 1974/75 marketing year.

The basic quantities shall be as follows:

(a) Denmark	328 000 metric tons of white sugar
(b) Germany	1 990 000 metric tons of white sugar
(c) France	2 996 000 metric tons of white sugar
— Metropolitan France	2 530 000 metric tons of white sugar
— French overseas departments	446 000 metric tons of white sugar
(d) Ireland	182 000 metric tons of white sugar
(e) Italy	1 230 000 metric tons of white sugar
(f) Netherlands	690 000 metric tons of white sugar
(g) BLEU	680 000 metric tons of white sugar
(h) United Kingdom	1 040 000 metric tons of white sugar

3. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt the general rules for the application of this Article and any derogations therefrom.

4. Should detailed rules for the application of this Article prove necessary, they shall be adopted in accordance with the procedure laid down in Article 36.

#### Article 25

1. Each undertaking for which a basic quota has been fixed may be allotted a maximum quota equal to its basic quota multiplied by a coefficient.

For the 1976/77 marketing year the maximum quota allotted to an undertaking shall not be less than the volume of its output up to the limit of its quotas for the 1975/76 marketing year.

2. For the 1975/76 marketing year the coefficient referred to in the first subparagraph of paragraph 1 shall be 1.45.

The coefficient for the 1976/77 to 1979/80 marketing years shall be fixed at the same time as the target price in accordance with the procedure laid down in Article 43 (2) of the Treaty, taking account of the trend of production from the point of view of specialization and marketing opportunities.

#### Article 26

1. Subject to Article 31, and paragraphs 2 and 3 of this Article, the quantity of sugar produced outside the maximum quota fixed for an undertaking in any given marketing year may not be disposed of on the internal market and must be exported in the natural state before 1 January following the end of the marketing year in question.

2. Articles 8, 9, 17 and 19 shall not apply to the quantity referred to in paragraph 1 which is not carried forward to the following marketing year pursuant to Article 31.

Exceptionally, however, in so far as necessary to guarantee the Community's sugar supplies it may be decided that Article 17 shall be applicable. In this event, it shall be recorded at the same time that the entire quantity of sugar in question may finally be disposed of on the internal market without the amount laid down in paragraph 3 being levied.

3. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 36. These rules shall provide in particular for the levying of a charge on the quantity of sugar referred to in the first subparagraph of paragraph 1, if disposed of on the internal market or not exported in the natural state before the date given in paragraph 1.

### Article 27

1. Subject to Article 31, Member States shall impose a production levy on manufacturers of sugar which is outside the basic quota but within the maximum quota.

2. The production levy shall be calculated per unit of weight by dividing total losses incurred in marketing the quantity produced in the Community outside the guaranteed quantity by the sum of the quantities produced outside the basic quota by Community undertakings. The guaranteed quantity shall be equal to human consumption in the Community, expressed as a quantity of white sugar, during a period to be determined, less the quantity, expressed as white sugar, imported on preferential terms during the same period from the developing countries referred to in Protocol No 22 to the Act of Accession, the countries and territories mentioned in Article 118 of that Act and India.

The quantity guaranteed may not, however, be less than the sum of the basic quotas.

When making the calculation referred to in the first subparagraph:

- the total losses mentioned in that subparagraph shall be reduced by the amount of the export levies,
- quantities outside the maximum quotas and quantities of sugar carried forward to the next marketing year pursuant to Article 31 shall be ignored.

3. The production levy may not, however, exceed that amount, which shall not be higher than 30% of the intervention price.

4. If the production levy is lower than the maximum amount referred to in paragraph 3, sugar manufacturers shall be required to pay beet sellers the difference between the maximum amount of the production levy and the final amount of this levy, up to a percentage to be determined.

The amount to be paid per metric ton of beet shall be fixed for the standard quality.

The price increases and reductions referred to in Article 5 shall apply to this amount.

5. Sugar manufacturers may require cane sellers to reimburse the production levy in respect of a quantity of cane corresponding to the quantity of sugar on which the production levy is charged, up to a percentage to be determined.

6. Member States shall satisfy themselves, on the basis of the information supplied by sugar manufacturers, that:

- (a) payment for beet, and
- (b) the sum of the reimbursements made by cane sellers to manufacturers

comply with the relevant Community provisions.

7. Detailed rules for the application of this Article shall be adopted, and the amount referred to in the second subparagraph of paragraph 4 shall be determined, in accordance with the procedure laid down in Article 36.

### Article 28

The Council, acting by a qualified majority on a proposal from the Commission, shall fix, at the same time as the derived intervention prices:

- minimum prices for beet outside the basic quota for the areas referred to in Article 4 (1),
- the percentages referred to in Article 27 (4) and (5),
- the maximum amount of the production levy calculated in such a way that the minimum prices for beet outside the basic quota are observed.

### Article 29

1. Sugar manufacturers may buy beet intended for the production of sugar outside the maximum quota fixed for the undertaking concerned at a price which is lower than the minimum prices for beet referred to in Article 4 (1).

2. However, in respect of the quantity of beet purchased corresponding to the quantity of sugar:

- disposed of on the internal market pursuant to the second subparagraph of Article 26 (2),

or

- carried forward to the following marketing year pursuant to Article 31,

the sugar manufacturers concerned shall, where appropriate, adjust the purchasing price so that it is at least equal to the minimum price referred to in the first indent of Article 4 (1).



### Article 30

1. In contracts for the delivery of beet for the manufacture of sugar, beet shall be differentiated depending on whether the quantities of sugar to be manufactured from it are:

- (a) within the basic quota,
- (b) outside the basic quota but within the maximum quota,
- (c) outside the maximum quota.

For each undertaking, sugar manufacturers shall inform the Member State in which the undertaking concerned produces sugar, of:

- the quantities of beet referred to under (a) for which pre-sowing contracts were signed and the sugar content on which these contracts were based,
- the corresponding estimated yield.

Member States may require additional information.

2. Notwithstanding Article 5 (2) (b) and Article 29 (1), any sugar manufacturer who has not signed pre-sowing delivery contracts for a quantity of beet equal to the basic quota, at the minimum price for beet referred to in the first indent of Article 4 (1), shall be required to pay this minimum price for all beet processed into sugar in the undertaking concerned.

3. The Council, acting by a qualified majority on a proposal from the Commission, shall adopt general rules for the application of paragraph 1.

4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 36. As far as paragraph 2 is concerned, they shall take the carry-forward effected pursuant to Article 31 into account.

### Article 31

1. Where Article 30 applies, each undertaking may carry forward that part of its production which is outside the basic quota, up to a maximum corresponding to 10% of the basic quota, to the following marketing year to be treated as part of that year's production.

No production may be carried forward to the 1980/81 marketing year.

2. Undertakings may carry forward part of their production to the following marketing year only if:

- they have notified the Member State concerned before 1 February of the quantity to be carried forward,
- they keep the quantity carried forward in store from 1 February to 31 January of the following year; storage costs for this period shall not be refunded under the provisions of Article 8.

As far as undertakings situated in the French departments of Guadeloupe and Martinique are concerned, however, 1 February in the first indent of the first subparagraph shall be replaced by 1 May and the period 1 February to 31 January of the following year in the second indent of the same subparagraph shall be replaced by 1 May to 30 April of the following year. If final production for the marketing year in question falls short of the estimates made when the decision to carry forward was taken, the quantity carried forward may be adjusted retroactively before 1 August of the following marketing year.

3. Provisions concerning:

- payment for beet used to manufacture the quantity of sugar carried forward,
- contributions by beet or cane sellers towards the cost of storing the quantities carried forward,
- agreement between beet or cane sellers and sugar manufacturers as a precondition for carrying forward shall be adopted by the Council acting by a qualified majority on a proposal from the Commission.

4. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 36.

### Article 32

1. Any Member State which has applied Article 31 of Regulation No 1009/67/EEC shall be free to decide that as from the 1976/77 marketing year at the earliest Article 30 is not to apply in its territory.

2. Each Member State shall, however, be free to limit the scope of the Decision referred to in paragraph 1 to specific undertakings, subject to certain conditions and in accordance with rules to be adopted by the Council acting by a qualified majority on a proposal from the Commission.

3. A Member State may only decide that Article 30 is not to apply for a fixed period. If it so decides, a special maximum quota calculated by multiplying the basic quota by a coefficient valid for the period shall be fixed for each undertaking concerned.

In this event, and if the period referred to in the preceding subparagraph covers more than one marketing year, the Member States shall fix the maximum quota for the undertaking concerned for each marketing year of the period in question, and not later than 28 February for the current marketing year, without taking Article 25 into account. The sum of the maximum quotas for the period in question for each undertaking must be equal to the special maximum quota fixed for that undertaking.

The maximum quota of an undertaking may not be higher than the maximum quota determined in accordance with the method of calculation described in Article 25 (2).

4. For the period or periods subsequent to 30 June 1976 the Council, acting by a qualified majority on a proposal from the Commission, shall determine:

- the length of each period for which a decision not to apply the provisions of Article 30 may be taken;
  - the coefficient to be applied to the basic quota allocated to the undertaking concerned, for a marketing year still to be determined, in order to calculate a special maximum quota for the period in question.
5. If necessary, general rules for the application of paragraph 3 shall be adopted in accordance with the procedure laid down in paragraph 4.
6. Detailed rules for the application of this Article shall be adopted in accordance with the procedure laid down in Article 36.

#### TITLE IV

#### General provisions

#### Article 33

The requisite provisions to prevent the market in sugar being disturbed as a result of an alteration in price levels at the changeover from one marketing year to the next may be adopted in accordance with the procedure laid down in Article 36.

#### Article 34

Member States and the Commission shall communicate to each other the information necessary for implementing this Regulation. Rules for the communication and distribution of such information shall be adopted in accordance with the procedure laid down in Article 36.

#### Article 35

1. A management committee for sugar (hereinafter called 'the Committee') shall be established, consisting of representatives of Member States and presided over by a representative of the Commission.
2. Within the Committee the votes of Member States shall be weighted in accordance with Article 148 (2) of the Treaty. The Chairman shall not vote.

#### Article 36

1. Where the procedure laid down in this Article is to be followed, the Chairman shall refer the matter to the Committee either on his own initiative or at the request of the representative of a Member State.
2. The representative of the Commission shall submit a draft of the measures to be taken. The Committee shall deliver its Opinion on such measures within a time limit to be set by the Chairman according to the urgency of the questions under consideration. An opinion shall be adopted by a majority of 41 votes.
3. The Commission shall adopt measures which shall apply immediately. However, if these measures are not in accordance with the opinion of the Committee, they shall forthwith be communicated to the Council by the Commission. In that event the Commission may defer application of the measures which it has adopted for not more than one month from the date of such communication.

The Council, acting by a qualified majority, may take a different decision within one month.

#### Article 37

The Committee may consider any other question referred to it by its Chairman either on his own initiative or at the request of the representative of a Member State.

#### Article 38

1. During the 1975/76 to 1979/80 marketing years, the Republic of Italy shall be authorized to grant adaptation aid which may not exceed a total of 5.9 units of account per metric ton of beet with a 16% sugar content processed into sugar.

Aid may be granted only in respect of the quantity of beet used to manufacture a quantity of white sugar equal to the basic quantity allocated to Italy.

2. In order to contribute towards improving the economic structure of the beet and sugar sectors, a proportion of the aid may be granted to the beet processing industry. In that event, the amount may not exceed 1.46 units of account per 100 kg of white sugar manufactured from beet grown in Italy. It may be granted only in respect of a quantity of white sugar which does not exceed the basic quantity allocated to Italy.

#### Article 39

1. The provisions concerning the financing of the common agricultural policy shall apply to the products listed in Article 1 (1).

2. Article 40 (4) of the Treaty and the provisions adopted for the application of that Article shall, as far as the Guarantee Section of the European Agricultural Guidance and Guarantee Fund is concerned, apply to the French overseas departments in respect of the markets in the products listed in Article 1 (1).

#### Article 40

Goods listed in Article 1 (1) which are manufactured or obtained from products to which Article 9 (2) and Article 10 (1) of the Treaty do not apply shall not be admitted to free circulation within the Community.

#### Article 41

Save as otherwise provided in this Regulation, Articles 92, 93 and 94 of the Treaty shall apply to the

production of and trade in the products listed in Article 1 (1).

#### Article 42

This Regulation shall be applied, so that appropriate account is taken, at the same time, of the objectives set out in Articles 39 and 110 of the Treaty.

#### Article 43

Should transitional measures be necessary to facilitate transition to the system established by this Regulation, in particular if the introduction of the new system on the date provided for would give rise to substantial difficulties, such measures shall be adopted in accordance with the procedure laid down in Article 36. They shall be applicable until 30 June 1976 at the latest.

#### Article 44

1. This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

2. It shall apply with effect from 1 July 1975, with the exception of:

- Articles 6, 7, 10, 24, 25, 30 and 43, which shall apply immediately upon the entry into force of this Regulation for the 1974/75 marketing year,
- and the second subparagraph of Article 3 (6), which shall apply with effect from 1 January 1975.

3. Regulation No 1009/67/EEC shall be repealed with effect from 30 June 1975.

4. Citations and references to Regulation No 1009/67/EEC contained in the Acts adopted in implementation of the latter must be understood as references to this Regulation.

Citations and references to Articles of the said Regulation are to be read in conjunction with the table of equivalence given in Annex II.

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

Done at Brussels, 19 December 1974.

*For the Council*  
*The President*  
J. P. FOURCADE

ANNEX I

CCT heading No	Description of goods
17.04	Sugar confectionery, not containing cocoa: B. Chewing gum C. White chocolate D. Other
18.06	Chocolate and other food preparations containing cocoa
19.02	Preparations of flour, meal, starch of malt extract, of a kind used as infant food or for dietic or culinary purposes, containing less than 50% by weight of cocoa
19.08	Pastry, biscuits, cakes and other fine bakers' wares, whether or not containing cocoa in any proportion
21.06	Natural yeasts (active or inactive); prepared baking powders: A. Active natural yeasts: II. Bakers' yeasts
21.07	Food preparations not elsewhere specified or included
22.02	Lemonade, flavoured spa waters and flavoured aerated waters, and other non-alcoholic beverages, not including fruit and vegetable juices falling within heading No 20.07
22.06	Vermouths, and other wines of fresh grapes flavoured with aromatic extracts
22.09	Spirits (other than those of heading No 22.08); liqueurs and other spirituous beverages; compound alcoholic preparations (known as 'concentrated extracts') for the manufacture of beverages: C. Spirituous beverages: V. Other
29.04	Acyclic alcohols and their halogenated, sulphonated, nitrated or nitrosated derivatives: C. Polyhydric alcohols: II. Mannitol III. Sorbitol
29.10	Acetals and hemiacetals and single or complex oxygen-function acetals and hemiacetals, and their halogenated, sulphonated, nitrated or nitrosated derivatives: ex B. Other: — Methyl glucosides

CCT heading No	Description of goods
29.14	<p>Monocarboxylic acids and their anhydrides, halides, peroxides and peracids, and their halogenated, sulphonated, nitrated or nitrosated derivatives:</p> <p>ex A. Saturated acyclic monocarboxylic acids: — Mannitol esters and sorbitol esters</p> <p>ex B. Unsaturated acyclic monocarboxylic acids: — Mannitol esters and sorbitol esters</p>
29.15	<p>Polycarboxylic acids and their anhydrides, halides, peroxides and peracids, and their halogenated, sulphonated, nitrated or nitrosated derivatives:</p> <p>A. Acyclic polycarboxylic acids: ex V. Other — Itaconic acid and its salts and esters</p>
29.16	<p>Carboxylic acids with alcohol, phenol, aldehyde or ketone function and other single or complex oxygen-function carboxylic acids and their anhydrides, halides, peroxides and peracids, and their halogenated, sulphonated, nitrated or nitrosated derivatives:</p> <p>A. Carboxylic acids with alcohol function: I. Lactic acid and its salts and esters IV. Citric acid and its salts and esters ex VIII. Other: — Glyceric acid, glycollic acid, saccharonic acid, isosaccharonic acid, heptasaccharic acid and their salts and esters</p>
29.35	<p>Heterocyclic compounds; nucleic acids:</p> <p>ex Q. Other: — Anhydric compounds of mannitol or sorbitol, excluding maltol and isomaltol</p>
29.43	<p>Sugars, chemically pure, other than sucrose and lactose; sugar ethers and sugar esters, and their salts, other than products of heading Nos 29.39, 29.41 and 29.42:</p> <p>ex B. Other: — Sorbose and its salts and esters</p>
29.44	<p>Antibiotics: A. Penicillins</p>
38.19	<p>Chemical products and preparations of the chemical or allied industries (including those consisting of mixtures of natural products), not elsewhere specified or included; residual products of the chemical or allied industries, not elsewhere specified or included:</p> <p>Q. Foundry core binders based on synthetic resins</p> <p>ex T. Other: — Sorbitol cracking products</p>

ANNEX II

TABLE OF EQUIVALENCE

Regulation No 1009/67/EEC	This Regulation
Article 9, § 5	Article 9, § 3
Article 9, § 6	Article 9, § 4
Article 9, § 7	Article 9, § 5
Article 9, § 8	Article 9, § 6
Article 10	Article 11
Article 11	Article 12
Article 12	Article 13
Article 13	Article 14
Article 14, § 1, 1st sentence	Article 15, § 1
Article 14, § 2	Article 15, § 2
Article 14, § 3	Article 15, § 3
Article 14, § 4	Article 15, § 4
Article 14, § 5	Article 15, § 5
Article 14, § 6	Article 15, § 6
Article 14, § 7	Article 15, § 7
Article 15	Article 16
Article 16, § 1, subparagraph 1	Article 17, § 1, subparagraph 1, 2nd sentence
Article 16, § 1, subparagraph 2	Article 17, § 1, subparagraph 1, 1st sentence
Article 16, § 1, subparagraph 3	Article 17, § 1, subparagraph 2
Article 16, § 2	Article 17, § 2
Article 16, § 3	Article 17, § 3
Article 16, § 4	Article 17, § 4
Article 16, § 5, subparagraph 1	Article 17, § 5
Article 16, § 5, subparagraph 2	Article 17, § 6
Article 17	Article 19
Article 19, § 1	Article 20
Article 20	Article 21
Article 21	Article 22
Article 25, § 1, subparagraph 1	Article 26, § 1
Article 25, § 2	Article 26, § 2
Article 25, § 3	Article 26, § 3
Article 27, § 3	Article 27, § 3, 1st sentence
Article 31, § 1 and 2	Article 32, § 1 and 2
Article 31, § 3, subparagraphs 1 to 3	Article 32, § 3
Article 31, § 4 to 6	Article 32, § 4 to 6
Article 32	Article 31
Article 35, § 2	Article 40
Article 36	Article 41
Article 37, § 2	Article 33
Article 38	Article 34
Article 39	Article 35
Article 40	Article 36
Article 41	Article 37
Article 43, § 1 and 2	Article 39
Article 44	Article 42
Article 45, § 1, 1st sentence	Article 43

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I

(Acts whose publication is obligatory)

REGULATION (EEC) No 2623/75 OF THE COUNCIL

of 13 October 1975

completing Regulation (EEC) No 3330/74 on the common organization of the market in sugar

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 42, 43 and 227 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament<sup>(1)</sup>;

Having regard to the Opinion of the Economic and Social Committee<sup>(2)</sup>;

Whereas it is necessary to ensure that the raw cane sugar of the French overseas departments will be effectively marketed in the Community in accordance with the principle of Community preference and without discrimination between the undertakings concerned;

Whereas in the French overseas departments sugar cane production and the cane processing industry are sectors which are at a disadvantage because of the particular conditions prevailing there; whereas these sectors represent an essential element of the economy of these departments; whereas it is therefore appropriate to provide for the possibility of France granting temporary aid as a contribution to, in particular, the improvement of the productivity of these sectors;

Whereas Protocol No 3 on ACP sugar annexed to the ACP-EEC Convention of Lomé signed on 28 February 1975 provides for a system of preferential imports of cane sugar into the Community; whereas the Agreements, on cane sugar, in the form of exchanges of letters between the Community and certain ACP States<sup>(3)</sup> were signed at Lomé on 28 February 1975, for the provisional implementation of the said Protocol; whereas Council Decision of 25 February 1975<sup>(4)</sup>, as supplemented by the Council Decision of 26 March 1975<sup>(5)</sup>, extended the said system to imports of cane sugar originating in the overseas countries and territories; whereas the Agree-

ment<sup>(6)</sup> between the European Economic Community and the Republic of India on cane sugar established a similar system for certain quantities of cane sugar originating in that country;

Whereas pursuant to Article 1 of the said Protocol, to Article 1 of the aforementioned Decision, and to Article 1 of the Agreement with India, the implementation of these systems of preferential imports must be carried out within the framework of the common organization of the market in sugar;

Whereas the preferential nature of these systems requires that the import levies provided for in the framework of the common organization of the market in sugar should not apply to imports made under these systems;

Whereas it is necessary to create means aimed at ensuring that raw cane sugar imported under the said preferential systems can be refined under the most equitable conditions of competition;

Whereas, for these reasons, it is necessary to complete Council Regulation (EEC) No 3330/74<sup>(7)</sup> of 19 December 1974 on the common organization of the market in sugar,

HAS ADOPTED THIS REGULATION:

Article 1

1. The following second and third subparagraphs shall be added to Article 9 (3) of Regulation (EEC) No 3330/74:

'Beginning with the sugar marketing year 1976/77, if a differential charge has been fixed in accordance with Article 46 a differential amount equal to that charge shall be granted for the raw sugar which is produced in the French overseas departments within the maximum quota and refined in a refinery situated in the Community.

<sup>(1)</sup> OJ No C 155, 9. 12. 1974, p. 48.

<sup>(2)</sup> OJ No C 47, 27. 2. 1975, p. 32.

<sup>(3)</sup> See p. 39 of this Official Journal.

<sup>(4)</sup> See p. 43 of this Official Journal.

<sup>(5)</sup> See p. 45 of this Official Journal.

<sup>(6)</sup> OJ No L 190, 23. 7. 1975, p. 36.

<sup>(7)</sup> OJ No L 359, 31. 12. 1974, p. 1.



For the period from 1 March 1975 to 30 June 1976 an amount may be granted for the raw sugar produced in the French overseas departments within the maximum quota and refined either in a refinery or in some other production unit situated in the Community.'

2. The following fourth indent shall be added to Article 9 (5) of Regulation (EEC) No 3330/74 :

— the amount referred to in the third subparagraph of paragraph 3 and the conditions on which it shall be granted.'

3. The following paragraph shall be added to Article 9 of Regulation (EEC) No 3330/74 :

'7. For the purposes of this Article and of Article 46 "refinery" means a production unit whose sole activity consists of refining either raw sugar or syrups produced prior to the crystallizing stage.'

#### Article 2

The following paragraph shall be added to Article 38 of Regulation (EEC) No 3330/74 :

'3. During the 1975/76 to 1979/80 sugar marketing years, the French Republic shall be authorized to grant adaptation aid to sugar cane producers and to the cane processing industry in the French overseas departments. Such aid, for both sectors taken together, shall not exceed 5 units of account per 100 kilogrammes of sugar expressed as white sugar. Aid may be granted only in respect of a quantity of sugar which does not exceed the basic quantity allocated to the French overseas departments.'

#### Article 3

The following Title shall be inserted after Article 42 of Regulation (EEC) No 3330/74 :

### TITLE V

#### System of preferential imports

#### Article 43

Articles 44 to 47 shall apply to cane sugar, raw or white, hereinafter referred to as "preferential sugar", which falls within subheadings 17.01 B I and 17.01 B II of the Common Customs Tariff, which originates in the states, countries and territories listed in Annex III, and which is imported into the Community under the provisions of the following :

- (a) Protocol No 3 on ACP sugar annexed to the ACP-EEC Convention of Lomé, signed 28 February 1975, and, the Agreements<sup>(1)</sup>, on cane sugar, in the form of exchanges of letters between the Community and certain ACP States signed at Lomé on 28 February 1975 for the provisional implementation of the said Protocol ;
- (b) the Council Decision of 25 February 1975<sup>(2)</sup> on imports of cane sugar originating in the overseas countries and territories (OCT), as supplemented by the Council Decision of 26 March 1975<sup>(3)</sup> ;
- (c) the Agreement<sup>(4)</sup> between the European Economic Community and the Republic of India on cane sugar.

#### Article 44

Where the quality of preferential sugar purchased by intervention agencies or by other agents appointed by the Community deviates from the standard quality the guaranteed prices shall be adjusted by means of price increases and reductions.

#### Article 45

1. The levy referred to in Article 15 shall not apply to imports of preferential sugar.
2. The prohibitions referred to in Article 21 (2) shall not be derogated from in any circumstances in respect of preferential sugar.

#### Article 46

1. Where there is a difference between, on the one hand, the raw sugar refining margin taken into account in the determination of the intervention and threshold prices for raw sugar and, on the other hand, the margin necessary for the refining of raw preferential sugar, a differential charge fixed for the sugar-marketing year in question shall be made on the latter sugar when it is put into free circulation.
2. By way of derogation from paragraph 1 :

- (a) the charge shall not be made on :
  - raw preferential sugar which is not intended for refining and which falls within subheading 17.01 B II (b) of the Common Customs Tariff, or
  - raw preferential sugar, other than that referred to in the first indent, which is intended for refining in a refinery and which is subject to the lodging of a deposit equal to the differential charge ;

(1) OJ No L 268, 17. 10. 1975, p. 39.

(2) OJ No L 268, 17. 10. 1975, p. 43.

(3) OJ No L 268, 17. 10. 1975, p. 45.

(4) OJ No L 190, 23. 7. 1975, p. 36.

(b) provision may be made for the non-application of the whole of the charge, or part of the charge, to any raw preferential sugar which is imported into regions of the Community to be determined and which is refined in a production unit other than one of the type referred to in Article 9 (7).

*Article 47*

1. The Council, acting by a qualified majority on a proposal from the Commission, shall :

(a) adopt general rules for the application of this Title and, in particular, those concerning the implementation of the texts referred to in Article 43,

(b) fix the differential charge referred to in Article 46 (1) and the conditions for the application of Article 46 (2) (b).

2. Detailed rules for the application of this Title shall be adopted in accordance with the procedure laid down in Article 36.'

*Article 4*

Articles 43 and 44 of Regulation (EEC) No 3330/74 shall become Articles 48 and 49 respectively and shall form the following title : 'Title VI — Final provisions'

All citations and references concerning former Articles 43 and 44 of Regulation (EEC) No 3330/74 shall

be read as referring to new Articles 48 and 49 respectively.

*Article 5*

The following Annex shall be added to Regulation (EEC) No 3330/74 :

*'ANNEX III*

**States, countries and territories referred to in Article 43**

Barbados  
Belize  
Fiji  
Guyana  
India  
Jamaica  
Kenya  
Madagascar  
Malawi  
Mauritius  
People's Republic of the Congo  
St. Kitts-Nevis-Anguilla  
Surinam  
Swaziland  
Tanzania  
Trinidad and Tobago  
Uganda'

*Article 6*

This Regulation shall enter into force on 1 November 1975.

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

Done at Luxembourg, 13 October 1975.

*For the Council*

*The President*

G. MARCORA

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COUNCIL REGULATION (EEC) No 1487/76

of 22 June 1976

amending Regulation (EEC) No 3330/74 on the common organization of the market in sugar

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Whereas Protocol 3 on ACP sugar annexed to the ACP-EEC Convention of Lomé (2), as also Council Decision 75/614/EEC of 25 February 1975 concerning the importation of cane sugar originating in the overseas countries and territories (OCT) (3), supplemented by Decision 75/615/EEC (4), and the Agreement between the European Economic Community and the Republic of India on cane sugar (5), affirm two basic principles whereby on the one hand the Community undertakes to purchase and import the sugar at negotiated prices and to provide intervention guarantees, and on the other these undertakings are to be implemented within the framework of the common organization of the market in sugar; whereas the incorporation of Title V concerning the system of preferential imports into Council Regulation (EEC) No 3330/74 of 19 December 1974 on the common organization of the market in sugar (6), as last amended by Regulation (EEC) No 832/76 (7), establishes the latter principle on a permanent footing; whereas, therefore, save as otherwise provided, the relevant provisions of the other titles of the said Regulation are applicable to preferential sugar referred to in Article 43 of the said Regulation;

Whereas, however, since Article 8 of Regulation (EEC) No 3330/74 provides that storage costs for white sugar, raw sugar and certain syrups produced prior to the crystallizing stage, manufactured from beet or cane harvested in the Community, shall be reimbursed at a flat rate by the Member States, preferential sugar is not entitled to such reimbursement;

Whereas the system of reimbursement for storage costs is to be regarded as a means of ensuring that supplies are spread as evenly as possible over the entire marketing year; whereas preferential sugar

should be used in attaining this objective, in particular by enabling Community refineries to maintain a steady rhythm of work irrespective of the pattern of supplies which is dependent to a large extent on geographical factors;

Whereas since 1 January 1976 Member States have been able to authorize within the framework of inward processing traffic *inter alia* operations which consist in exporting white sugar then in compensating for such exportation, within a certain period, by a later importation of raw sugar; whereas such operations can have a determining influence on supplies to the Community market, in particular during the period of transition from one harvest to the next; whereas, therefore, the possibility of excluding the use of the inward processing traffic system in the case of the refining of raw sugar should be extended;

Whereas the abovementioned undertakings have the effect of conferring the same rights on preferential sugar as those of Community sugar produced under the quota system; whereas, therefore, preferential sugar should contribute to ensuring normal supplies to the Community which is the main purpose of Article 18 of Regulation (EEC) No 3330/74; whereas, therefore, preferential sugar should be subject to the minimum stock system;

Whereas with regard in particular to the foreseeable beet and sugar production situation in Italy in the 1976/77 sugar marketing year, provision should be made, exceptionally, for Italy to grant adaptation aid during the said marketing year in excess of that currently authorized,

HAS ADOPTED THIS REGULATION :

*Article 1*

Article 8 (1) of Regulation (EEC) No 3330/74 shall be replaced by the following :

'1. Subject to Article 31 (2), storage costs for white sugar, raw sugar and certain syrups produced prior to the crystallizing stage, manufactured from beet or cane harvested in the Community shall be reimbursed at a flat rate by the Member States.

(1) OJ No C 53, 8. 3. 1976, p. 24.

(2) OJ No L 25, 30. 1. 1976, p. 1.

(3) OJ No L 268, 17. 10. 1975, p. 43.

(4) OJ No L 268, 17. 10. 1975, p. 45.

(5) OJ No L 190, 23. 7. 1975, p. 36.

(6) OJ No L 359, 31. 12. 1974, p. 1.

(7) OJ No L 100, 14. 4. 1976, p. 1.

The storage costs for preferential sugar referred to in Article 43 shall also be reimbursed at a flat rate by the Member States.

Member States shall charge a levy :

- (a) on each sugar manufacturer :
  - per unit of weight of sugar produced, or
  - per unit of weight of the syrups referred to in the preceding subparagraph and produced and marketed in the natural state ;
- (b) on each importer of preferential sugar per unit of weight of sugar imported and marketed in the natural state ;
- (c) on each sugar refiner of preferential sugar per unit of weight of refined sugar.

The amount of the reimbursement shall be the same for the entire Community. The same rule shall apply to the levy.

However, as regards the 1976/77 sugar marketing year, this Article shall not apply to preferential sugar.'

#### *Article 2*

The second subparagraph of Article 18 (1) of Regulation (EEC) No 3330/74 shall be replaced by the following :

'This minimum stock shall, in principle, be equal to 10 % of the basic quota of each undertaking or to 10 % of an undertaking's production, where its production is smaller than its basic quota. As regards the preferential sugar referred to in Article 43 this minimum stock shall in principle be equal to 10 % of the quantity of preferential sugar which an undertaking refines during a period to be determined.'

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

Done at Luxembourg, 22 June 1976.

#### *Article 3*

The first indent of Article 20 of Regulation (EEC) No 3330/74 shall be replaced by the following :

- '— the products listed in Article 1 (1) which are intended for the manufacture of the products listed in the same paragraph under (a) and (d).'

#### *Article 4*

The following paragraph shall be inserted into Article 38 of Regulation (EEC) No 3330/74 :

'2a. Notwithstanding paragraphs 1 and 2, during the 1976/77 sugar marketing year, the amount referred to in the first subparagraph of paragraph 1 shall be 9.9 units of account, a portion of which may be granted to the processing industry. This amount shall apply to the quantity of white sugar referred to in the second subparagraph of paragraph 1 increased by 100 000 metric tons of white sugar.

Moreover, during the 1976/77 sugar marketing year, the Italian Republic may grant additional aid of an amount equal to the production levy laid down for the said marketing year. This aid shall apply to the quantity of white sugar produced during the said marketing year in excess of the basic quota, without however exceeding the maximum quota, up to a limit of 100 000 metric tons.'

#### *Article 5*

This Regulation shall enter into force on 1 July 1976.

*For the Council*

*The President*

J. HAMILIUS

**COUNCIL REGULATION (EEC) No 1488/76**

**of 22 June 1976**

**laying down provisions for the introduction of a system of minimum stocks in the sugar sector**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to Council Regulation (EEC) No 3330/74 of 19 December 1974 on the common organization of the market in sugar<sup>(1)</sup>, as last amended by Regulation (EEC) No 1487/76<sup>(2)</sup>, and in particular Article 18 (3) thereof,

Having regard to the proposal from the Commission,

Whereas in view of the aims of the common agricultural policy, in particular the stabilization of markets, the maintenance of reasonable prices for the supplies to consumers and the safeguarding of normal supplies for the entire Community and each of its regions, Article 18 of Regulation (EEC) No 3330/74 provides for the establishment of a system of minimum stocks; whereas the said Article lays down that the minimum stock shall in principle be equal to 10% of the basic quota for each undertaking or to 10% of an undertaking's production where its production is smaller than its basic quota; whereas as regards preferential sugar, the said Article provides that the minimum stock must in principle be equal to 10% of the quantity of preferential sugar refined by an undertaking during a period to be determined; whereas, therefore, the stock must be held under certain conditions by the manufacturer and the refiner of the sugar in question; whereas it is necessary to apply this system in such a way as to take account of the existing structures in the sugar sector; whereas the criteria for proper utilization of the minimum stock need to be laid down;

Whereas in order to ensure effective administration of this system, provision should be made for the adoption of implementing provisions in accordance with the procedure laid down in Article 36 of Regulation (EEC) No 3330/74,

HAS ADOPTED THIS REGULATION:

*Article 1*

Without prejudice to the other provisions of this Regulation and in so far as the goods concerned are those

<sup>(1)</sup> OJ No L 359, 31. 12. 1974, p. 1.  
<sup>(2)</sup> See page 9 of this Official Journal.

to which Article 8 of Regulation (EEC) No 3330/74 applies:

- (a) each sugar manufacturer shall, each month of the calendar year, hold in stock a quantity of sugar which may not be less than 10% of his actual production, within the limits of the basic quota of his undertaking, during the 12 months immediately preceding the month in question;
- (b) each refiner of preferential sugar shall, each month of the calendar year, hold in stock a quantity of sugar which may not be less than 10% of the preferential sugar refined in his undertaking during the 12 months immediately preceding the month in question.

*Article 2*

Without prejudice to Article 3 the minimum stock may only be the property of the manufacturer or refiner in question and must be unencumbered by any commitments that might impede the aims of Article 18 of Regulation (EEC) No 3330/74.

*Article 3*

Raw sugar or syrups produced prior to the crystallizing stage by an undertaking which has a basic quota as part of its minimum stock and which are intended for processing into white sugar by another undertaking:

- (a) may be sold to the processor, on condition that the latter undertakes, with respect to the quantity of the product in question, to meet the obligations specified in Articles 1 (a) and 2;

or

- (b) at the request of the manufacturer who produced them they shall not be subject to the obligation referred to in Article 1 (a), in return for the reimbursement by the manufacturer on a flat-rate basis of the profit resulting from taking account of storage costs for the minimum stock in fixing sugar prices.

*Article 4*

Where the supplies of sugar required by the Community can no longer be ensured under normal condi-

tions, provision may be made for the owner of the minimum stock to be released in whole or in part from the obligation to stock the sugar in question.

*Article 5*

Where the market position so requires or where action to release sugar taken in accordance with Article 4 is ineffective, the Council, acting by a qualified majority on a proposal from the Commission, shall adopt appropriate measures to ensure that the necessary quantities are taken out of stock to supply the Community or one or more Community regions under normal conditions.

*Article 6*

When sugar from the minimum stock is marketed under conditions other than those provided for by the rules of the minimum stock system, a charge shall be levied in respect of the quantity of sugar marketed.

This amount shall be calculated on the basis of :

- (a) a sum representing the profit resulting from taking account of the costs involved in maintaining the minimum stock in fixing sugar prices ;

and

- (b) the difference between the threshold price and the intervention price fixed for white sugar for the sugar marketing year in question, plus a fixed amount of two units of account per 100 kilogrammes.

*Article 7*

Detailed rules for the application of this Regulation, in particular the amount laid down in Article 6, and any derogations from Article 2 shall be adopted in accordance with the procedure laid down in Article 36 of Regulation (EEC) No 3330/74.

*Article 8*

1. This Regulation shall enter into force on 1 July 1976.
2. This Regulation shall apply from the 1976/77 sugar marketing year :
  - to the French departments of Guadeloupe and Martinique, as from 1 June 1977,
  - to the other regions of the Community, as from 1 February 1977.

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

Done at Luxembourg, 22 June 1976.

*For the Council*  
*The President*  
J. HAMILIUS

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COUNCIL REGULATION (EEC) No 1489/76  
of 22 June 1976

amending Regulation (EEC) No 766/68 as regards the granting of export refunds  
on sugars imported into the Community under preferential systems

THE COUNCIL OF THE EUROPEAN  
COMMUNITIES,

Having regard to the Treaty establishing the European  
Economic Community,

Having regard to Council Regulation (EEC) No  
3330/74 of 19 December 1974 on the common organiza-  
tion of the market in sugar<sup>(1)</sup>, as last amended by  
Regulation (EEC) No 1487/76<sup>(2)</sup>, and in particular  
Article 19 (2) and (3) thereof,

Having regard to the proposal from the Commission,

Whereas Regulation (EEC) No 3330/74 lays down  
special arrangements to ensure the application of the  
preferential systems referred to in Title V thereof;

Whereas the provisions of Article 19 of Regulation  
(EEC) No 3330/74 on the system of refunds are there-  
fore applicable to the said preferential sugar;

Whereas Article 15 of Council Regulation (EEC) No  
766/68 of 18 June 1968 laying down general rules for  
granting export refunds on sugar<sup>(3)</sup>, as last amended  
by Regulation (EEC) No 1102/75<sup>(4)</sup>, lays down firstly  
that no export refund shall be granted for the  
products listed in Article 1 (1) (a) and (c) of Regulation  
(EEC) No 3330/74, unless they have been produced  
from sugar beet or sugar cane harvested within the  
Community, and secondly that no export refund shall  
be granted for the products listed in the said Article  
1 (1) (d) which are not of Community origin;

Whereas under paragraph 4 of Protocol 17 to the Act  
of Accession<sup>(5)</sup> and notwithstanding Article 15 (1) of  
Regulation (EEC) No 766/68, the export refund applic-  
able in the United Kingdom may be granted for  
white sugar produced from raw sugar imported under  
the terms of the Protocol;

Whereas preferential import systems applying to sugar  
combined with an undertaking to purchase and

import were subsequently introduced by Protocol 3 on  
sugar annexed to the ACP-EEC Convention of  
Lomé<sup>(6)</sup>, by Council Decision 75/614/EEC of 25  
February 1975 concerning the importation of cane  
sugar originating in the overseas countries and territo-  
ries (OCT)<sup>(7)</sup>, and by the Agreement between the  
EEC and the Republic of India on cane sugar<sup>(8)</sup>;  
whereas the implementation of these preferential  
systems and in particular of the undertakings referred  
to calls for an extension of the system of export  
refunds to sugars imported under preferential systems,

HAS ADOPTED THIS REGULATION:

*Article 1*

Article 15 of Regulation (EEC) No 766/68 shall be  
replaced by the following:

*Article 15*

1. No export refund shall be granted on the  
products listed in Article 1 (1) (a) of Regulation  
(EEC) No 3330/74 unless they have been:

(a) produced from sugar beet or sugar cane har-  
vested within the Community;

(b) imported into the Community by virtue of:

— of Protocol 3 on sugar annexed to the  
ACP-EEC Convention of Lomé,

— of Decision 75/614/EEC,

— of the Agreement between the EEC and  
the Republic of India on cane sugar;

(c) produced from one of the products imported  
by virtue of the provisions referred to under  
(b)

2. No export refund shall be granted for the  
products listed in Article 1 (1) (c) and (d) of Regula-

(1) OJ No L 359, 31. 12. 1974, p. 1.

(2) See page 9 of this Official Journal.

(3) OJ No L 143, 23. 6. 1968, p. 6.

(4) OJ No L 110, 30. 4. 1975, p. 1.

(5) OJ No L 73, 27. 3. 1972, p. 14.

(6) OJ No L 25, 30. 1. 1976, p. 1.

(7) OJ No L 268, 17. 10. 1975, p. 43.

(8) OJ No L 190, 23. 7. 1975, p. 36.



tion (EEC) No 3330/74 which are not of Community origin or have not been produced from sugars imported into the Community by virtue of the provisions referred to in paragraph 1 (b) or from products specified in paragraph 1 (c).'

*Article 2*

This Regulation shall enter into force on 1 July 1976.

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

Done at Luxembourg, 22 June 1976.

*For the Council*  
*The President*  
J. HAMILIUS

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**COUNCIL REGULATION (EEC) No 157/76**  
**of 20 January 1976**

**on the safeguard measures provided for in the ACP-EEC Convention of Lomé**

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 the proposal from the Commission,

Having regard to the opinion of the European Parliament (1),

Whereas the ACP-EEC Convention of Lomé was signed on 28 February 1975;

Whereas the detailed rules for implementing the safeguard clause provided for in Article 10 of the Convention should be laid down, it being understood that the procedures concerning the safeguard clauses provided for in the Treaty establishing the European Economic Community and in the Regulations on the common organization of agricultural markets are also applicable,

HAS ADOPTED THIS REGULATION :

*Article 1*

1. The Commission may, at the request of a Member State or on its own initiative, decide to apply to products originating in the African, Caribbean and Pacific States safeguard measures under the power reserved to the Community in Article 10 of the Convention.

If the Commission receives a request from a Member State it shall take a decision thereon within three working days following receipt of the request.

Member States shall be notified of the safeguard measures, which shall apply immediately.

2. Any Member State may refer any measure taken by the Commission to the Council within 10 working days following the day of notification of such a

measure. The Council shall meet without delay. Acting by a qualified majority, it may amend or rescind the measure in question.

*Article 2*

1. Without prejudice to the application of Article 1, the Commission may authorize a Member State to take safeguard measures to counteract the disturbances or difficulties referred to in Article 10 of the Convention.

If the Commission receives a request from the Member State concerned, it shall take a decision thereon within three working days following receipt of the request.

The Commission's decision shall be notified to all Member States.

2. Any Member State may refer the Commission's decision to the Council within 10 working days of notification of that decision. The Council shall meet without delay. Acting by a qualified majority, it may amend or annul the decision taken by the Commission.

3. The Member State concerned shall notify the other Member States and the Commission of the measures taken in implementation of the decision of the Commission, or where appropriate of the Council, and of any amendment which it makes thereto.

*Article 3*

1. Without prejudice to the application of Articles 1 and 2, the Member State or States concerned may, in an emergency, introduce safeguard measures. They shall notify the other Member States and the Commission of such measures forthwith.

Using an emergency procedure the Commission shall, within five working days of the notification referred to in the first subparagraph, decide whether the measures are to be retained, amended or abolished.

(1) OJ No C 257, 10. 11. 1975, p. 26.

The Commission's decision shall be notified to all Member States. It shall be immediately enforceable.

2. Any Member State may refer the Commission's decision to the Council within 10 working days of notification of that decision. The Council shall meet without delay. Acting by a qualified majority, it may amend or annul the decision taken by the Commission.

If the matter is referred to the Council by the Member State which has taken the measures, the Commission's decision shall be suspended. The suspension shall cease to apply 30 days after the matter has been referred to the Council if the latter has not by then amended or annulled the Commission's decision.

*Article 4*

This Regulation shall not preclude application of Regulations establishing a common organization of

agricultural markets or of Community or national administrative provisions derived therefrom or of the special Regulations adopted under Article 235 of the Treaty for processed agricultural products; it shall be implemented as a complement to those instruments.

*Article 5*

The Community's notification, as provided for in Article 10 of the Convention, shall be made to the ACP-EEC Council of Ministers by the Commission.

*Article 6*

This Regulation shall enter into force at the same time as the ACP-EEC Convention of Lomé.

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

Done at Brussels, 20 January 1976.

*For the Council*

*The President*

G. THORN

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**COUNCIL REGULATION (EEC) No 158/76  
of 20 January 1976**

**on the system for guaranteeing the stabilization of earnings from certain commodities exported by the ACP States and the overseas countries and territories associated with the Community**

THE COUNCIL OF THE EUROPEAN  
COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 213 thereof,

Having regard to the proposal from the Commission,

Whereas the ACP-EEC Convention of Lomé was signed on 28 February 1975;

Whereas Article 17 of the Convention establishes the list of commodities covered by the system for stabilizing export earnings of the ACP States;

Whereas it is proposed to extend this system to the overseas countries and territories associated with the Community, hereinafter called the 'countries and territories';

Whereas it is necessary to institute a system of cross-checking of statistics between the Community and the ACP States and between the Community and the countries and territories in order to implement the system for stabilizing export earnings,

HAS ADOPTED THIS REGULATION :

*Article 1*

Before the end of each month, the Member States shall forward to the Commission a statement of imports during the previous month of the products listed in the Annex to this Regulation :

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

Done at Brussels, 20 January 1976.

- from the ACP States listed in Annex I to Regulation (EEC) No 1598/75<sup>(1)</sup> until the Convention enters into force and thereafter from the ACP States to which the Convention applies;
- from the countries and territories listed in Annex I to Regulation (EEC) No 1957/75<sup>(2)</sup> and subsequently from those covered by the Decision to be adopted by the Council on the association of the countries and territories.

*Article 2*

The statement referred to in Article 1 shall give details of all products :

- which are released for home use in the Member State concerned,
- which are brought under the inward processing arrangements there in order to be processed.

*Article 3*

The statement referred to in Article 1 shall show the country of origin of the products, according to the common geographical code in force, the quantities imported and the cif values of these imports.

*Article 4*

This Regulation shall enter into force on the day of its publication in the *Official Journal of the European Communities*.

It shall apply from 1 January 1976.

*For the Council*

*The President*

G. THORN

<sup>(1)</sup> OJ No L 166, 28. 6. 1975, p. 1.

<sup>(2)</sup> OJ No L 201, 31. 7. 1975, p. 5.

ANNEX

List of products which are the subject of this Regulation

Nimex code	Tariff description
<p>(a) <i>Ground-nut products</i>  12.01.31 to 12.01.35   15.07.74 and 15.07.87   23.04.10</p>	<p>Oil seeds and oleaginous fruit, whole or broken :  Ground-nuts, in shell or shelled   Ground-nut oil for the manufacture of foodstuffs for human consumption, crude   Ground-nut oil for the manufacture of foodstuffs for human consumption, other   Oil-cake and other residues (except dregs) resulting from the extraction of vegetable oils :  Other :  Of ground-nuts</p>
<p>(b) <i>Cocoa products</i>  18.01.00  18.03.10 to 18.03.30   18.04.00</p>	<p>Cocoa beans, whole or broken, raw or roasted  Cocoa paste (in bulk or in block), whether or not defatted :  Not defatted  Wholly or partly defatted  Cocoa butter (fat or oil)</p>
<p>(c) <i>Coffee products</i>  09.01.11 to 09.01.17  -   21.02.10</p>	<p>Coffee, whether or not roasted or freed of caffeine ; coffee husks and skins ; containing coffee in any proportion  Coffee, unroasted :  Not freed of caffeine ; freed of caffeine  Coffee, roasted :  Not freed of caffeine ; freed of caffeine  Extracts, essences or concentrates of coffee ; preparations with a basis of coffee extracts, essences or concentrates</p>
<p>(d) <i>Cotton products</i>  55.01.10 to 55.01.90  55.02.10 to 55.02.90</p>	<p>Cotton, not carded or combed  Cotton linters, raw and other</p>
<p>(e) <i>Coconut products</i>  08.01.71 to 08.01.75   12.01.42   15.07.77 and 15.07.92</p>	<p>Coconuts :  Desiccated coconut :  Other  Oil-seeds and oleaginous fruit, whole or broken :  Copra  Coconut or copra oil for the manufacture of foodstuffs for human consumption, crude  Coconut or copra oil for the manufacture of foodstuffs for human consumption, other</p>

Ninex code	Tariff description
23.04.20	Oil-cake and other residues (except dregs) resulting from the extraction of vegetable oils :
(f) <i>Palm, palm nut and kernel products</i>	Other Of copra (= of coconut)
15.07.19 and 15.07.61 and 15.07.63	Palm oil, for technical or industrial uses, crude
	Palm oil, for the manufacture of foodstuffs for human consumption, crude
	Palm oil, for the manufacture of foodstuffs for human consumption, other
15.07.31 and 15.07.78 and 15.07.93	Palm kernel oil, for technical or industrial uses, crude
	Palm kernel oil, for the manufacture of foodstuffs for human consumption, solid or fluid, other than in packings of 1 kg or less, crude
	Palm kernel oil, for the manufacture of foodstuffs for human consumption, solid or fluid, other than in packings of 1 kg or less, other
23.04.30	Oil-cake and other residues (except dregs) resulting from the extraction of vegetable oils :
	Other :
12.01.44	Of palm nuts or kernels
(g) <i>Raw hides, skins and leather</i>	Oil seeds and oleaginous fruit, whole or broken : Palm nuts and kernels
41.01.11 to 41.01.95	Raw hides and skins (fresh, salted, dried, pickled or limed), whether or not split, including sheepskins in the wool
41.02.05 to 41.02.50	Bovine cattle leather (including buffalo leather) and equine leather, except leather falling within heading No 41.06, 41.07 or 41.08
41.03.10 to 41.03.99	Sheep and lamb skin leather, except leather falling within heading No 41.06, 41.07 or 41.08
41.04.10 to 41.04.99	Goat and kid skin leather, except leather falling within heading No 41.06, 41.07 or 41.08
(h) <i>Wood products</i>	
44.03.20 to 44.03.99	Wood in the rough, whether or not stripped of its bark or merely roughed down
44.04.20 to 44.04.98	Wood, roughly squared or half-squared, but not further manufactured
44.05.10 to 44.05.79	Wood sawn lengthwise, sliced or peeled, but not further prepared, of a thickness exceeding 5 mm
(i) <i>Fresh bananas</i>	
08.01.31	Bananas : Fresh

Nimex code	Tariff description
(j) <i>Tea</i> 09.02.10 to 09.02.90	Tea in immediate packings of a net capacity not exceeding 3 kg : Other
(k) <i>Raw sisal</i> 57.04.10	Sisal fibres and other fibres of the Agave family, including waste of such fibres and pulled or garnetted rags or ropes
(l) <i>Iron ore</i> 26.01.12 to 26.01.18	Metallic ores and concentrates and roasted iron pyrites : Iron ores and concentrates and roasted iron pyrites

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 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 the trade arrangements applicable to certain goods resulting from the processing of agricultural products<sup>(1)</sup>, as last amended by Regulation (EEC) No 3058/75<sup>(2)</sup>, and in particular Article 12 thereof,

Having regard to the proposal from the Commission,

Having regard to the opinion of the European Parliament<sup>(3)</sup>,

Whereas the ACP-EEC Convention of Lomé hereinafter called 'the Convention', between the African, Caribbean and Pacific States, hereinafter called 'the ACP States,' and the European Economic Community was signed on 28 February 1975;

Whereas Article 2 (2) (a) of that Convention lays down that: 'Products originating in the ACP States:

- listed in Annex II to the Treaty when they come under a common organization of the market within the meaning of Article 40 of the Treaty, or
- subject, on importation into the Community, to specific rules introduced as a result of the implementation of the common agricultural policy,

shall be imported into the Community notwithstanding the general arrangements applied in respect of third countries, in accordance with the following provisions:

(i) those products shall be imported free of customs duties for which Community provisions in force at the time of importation do not provide, apart from customs duties, for the application of any other measure relating to their importation;

(ii) for products other than those referred to under (i), the Community shall take the necessary measures to ensure, as a general rule, more favourable treatment than the general treatment applicable to the same products originating in third countries to which the most-favoured-nation clause applies;

Whereas:

— Council Regulation (EEC) No 805/68 of 27 June 1968 on the common organization of the market in beef and veal<sup>(4)</sup>, as last amended by Regulation (EEC) No 568/76<sup>(5)</sup>,

— Council Regulation (EEC) No 100/76 of 19 January 1976 on the common organization of the market in fishery products<sup>(6)</sup>,

— Council Regulation No 136/66/EEC of 22 September 1966 on the establishment of a common organization of the market in oils and fats<sup>(7)</sup>, as last amended by Regulation (EEC) No 1707/73<sup>(8)</sup>,

— Council Regulation (EEC) No 2727/75 of 29 October 1975 on the common organization of the market in cereals<sup>(9)</sup>, as last amended by Regulation (EEC) No 3058/75<sup>(10)</sup>,

<sup>(1)</sup> OJ No L 148, 28. 6. 1968, p. 24.

<sup>(2)</sup> OJ No L 67, 15. 3. 1976, p. 28.

<sup>(3)</sup> OJ No L 20, 28. 1. 1976, p. 1.

<sup>(4)</sup> OJ No 172, 30. 9. 1966, p. 3025/66.

<sup>(5)</sup> OJ No L 175, 29. 6. 1973, p. 5.

<sup>(6)</sup> OJ No L 281, 1. 11. 1975, p. 1.

<sup>(7)</sup> OJ No L 306, 26. 11. 1975, p. 3.

<sup>(1)</sup> OJ No L 141, 12. 6. 1969, p. 1.

<sup>(2)</sup> OJ No L 306, 26. 11. 1975, p. 3.

<sup>(3)</sup> Opinion delivered on 12 March 1976 (not yet published in the Official Journal).



- Council Regulation No 359/67/EEC of 25 July 1967 on the common organization of the market in rice<sup>(1)</sup>, as last amended by Regulation (EEC) No 668/75<sup>(2)</sup>,
- Council Regulation (EEC) No 1035/72 of 18 May 1972 on the common organization of the market in fruit and vegetables<sup>(3)</sup>, as last amended by Regulation (EEC) No 2482/75<sup>(4)</sup>,
- Council Regulation (EEC) No 865/68 of 28 June 1968 on the common organization of the market in products processed from fruit and vegetables<sup>(5)</sup>, as last amended by Regulation (EEC) No 1420/75<sup>(6)</sup>,
- Regulation (EEC) No 1059/69,
- Council Regulation (EEC) No 727/70 of 21 April 1970 on the common organization of the market in raw tobacco<sup>(7)</sup>, as last amended by the Act of Accession<sup>(8)</sup>,
- Council Regulation (EEC) No 1308/70 of 29 June 1970 on the common organization of the market in flax and hemp<sup>(9)</sup>, as last amended by the Act of Accession,
- Council Regulation (EEC) No 1696/71 of 26 July 1971 on the common organization of the market in hops<sup>(10)</sup>, as last amended by the Act of Accession,
- Council Regulation (EEC) No 234/68 of 27 February 1968 on the establishment of a common organization of the market in live trees and other plants, bulbs, roots and the like, cut flowers and ornamental foliage<sup>(11)</sup>, as last amended by the Act of Accession,
- Council Regulation (EEC) No 2358/71 of 26 October 1971 on the common organization of the market in seeds<sup>(12)</sup>, as last amended by Regulation (EEC) No 671/75<sup>(13)</sup>,

- Council Regulation (EEC) No 827/68 of 28 June 1968 on the common organization of the market in certain products listed in Annex II to the Treaty<sup>(14)</sup>, as last amended by Regulation (EEC) No 1067/74<sup>(15)</sup>, and
- Council Regulation (EEC) No 1067/74 of 30 April 1974 on the common organization of the market in dehydrated fodder, as last amended by Regulation (EEC) No 1420/75<sup>(16)</sup>,

establish trade arrangements with third countries;

Whereas, on the one hand, these arrangements provide only for the application of customs duties on the importation of a number of products; whereas, on the other hand, these trade arrangements involve the application of customs duties and import levies on beef and veal and on products processed from fruit and vegetables, the charging of levies in respect of cereals, rice and products processed from cereals and rice, the charging of an *ad valorem* duty and a variable component on certain goods resulting from the processing of agricultural products, the application of customs duties and other measures in respect of imports of fishery products, certain fruit and vegetables, and oils and fats; whereas the obligations of the Community towards the ACP States arising from Article 2 (2) (a) of the Convention may be fulfilled by granting total or partial exemption from import charges for the products in question where they originate in the ACP States;

Whereas it should be specified that the advantages resulting from Article 2 (2) (a) of the Convention are accorded only to originating products within the meaning of Protocol 1 concerning the definition of the concept of originating products and methods of administrative cooperation, annexed to the Convention;

Whereas, furthermore, these advantages should, according to each case, be combined with certain conditions and limited to certain annual and multi-annual quantities;

Whereas it should be stipulated that the safeguard clauses provided for in the Regulations on the common organization of the agricultural markets and in the specific rules introduced as a result of the implementation of the common agricultural policy are applicable; whereas Council Regulation (EEC)

(1) OJ No 174, 31. 7. 1967, p. 1.  
(2) OJ No L 72, 20. 3. 1975, p. 18.  
(3) OJ No L 118, 20. 5. 1972, p. 1.  
(4) OJ No L 254, 21. 10. 1975, p. 3.  
(5) OJ No L 153, 1. 7. 1968, p. 8.  
(6) OJ No L 141, 3. 6. 1975, p. 1.  
(7) OJ No L 94, 28. 4. 1970, p. 1.  
(8) OJ No L 73, 27. 3. 1972, p. 14.  
(9) OJ No L 146, 4. 7. 1970, p. 1.  
(10) OJ No L 175, 4. 8. 1971, p. 1.  
(11) OJ No L 55, 2. 3. 1968, p. 1.  
(12) OJ No L 246, 5. 11. 1971, p. 1.  
(13) OJ No L 72, 20. 3. 1975, p. 21.

(14) OJ No L 151, 30. 6. 1968, p. 16.  
(15) OJ No L 120, 1. 5. 1974, p. 2.  
(16) OJ No L 141, 3. 6. 1975, p. 1.

No 157/76 of 20 January 1976 on the safeguard measures provided for in the ACP-EEC Convention of Lomé<sup>(1)</sup> applies as a complementary measure;

Whereas a Council Decision on the association of the overseas countries and territories listed in Annex I (hereinafter called 'the countries and territories') with the European Economic Community is envisaged; whereas it will include special rules concerning safeguard measures; whereas pending the entry into force of that Decision it is necessary to lay down such rules for the purposes of applying this Regulation; whereas from the entry into force of the Decision to be taken the safeguard clauses which it contains will apply as complementary measures;

Whereas there have traditionally been trade flows from the ACP States towards the French overseas departments; whereas provision should therefore be made for measures favouring imports of certain products originating in the ACP States into these French overseas departments to meet their supply requirements;

Whereas for agricultural products and certain goods resulting from the processing of agricultural products originating in the countries and territories, the rules of origin laid down in Council Regulation (EEC) No 1957/75 of 30 July 1975 on the interim trade arrangements with the overseas countries and territories associated with the European Economic Community<sup>(2)</sup>, and in particular in Annex II thereof, will remain applicable until the entry into force of the Decision to be taken on the association of the countries and territories, which will lay down provisions on origin similar to those for products originating in the ACP States,

HAS ADOPTED THIS REGULATION:

#### *Article 1*

1. This Regulation shall apply to products originating in the ACP States or in the countries and territories listed in Annex I.

2. The rules of origin applicable to such of these products as are imported from the ACP States or the countries and territories shall be respectively those set out in Protocol 1 concerning the definition of the concept of originating products and methods of administrative cooperation, annexed to the

Convention, and those of Annex II to Regulation (EEC) No 1957/75. The latter rules shall cease to apply as from the entry into force of the similar rules contained in the Decision to be taken on the association of the countries and territories.

### **TITLE I**

#### **Beef and veal**

##### *Article 2*

The beef and veal products referred to in Article 1 of Regulation (EEC) No 805/68 shall be imported free of customs duties.

##### *Article 3*

Where, in the course of a year, imports into the Community of beef and veal falling within subheading 02.01 A II a) of the Common Customs Tariff and originating in an ACP State or country or territory exceed a quantity equivalent to that of imports into the Community during the year between 1969 and 1974 inclusive, in which the greatest quantity of Community imports of the origin in question was recorded, plus an annual growth rate of 7 %, exemption from customs duties on the products of that origin shall be partially or totally suspended in accordance with the procedure laid down in Article 27 of Regulation (EEC) No 805/68.

In such a case, the Commission shall report to the Council, which, acting by a qualified majority on a proposal from the Commission, shall decide on the treatment to be applied to the imports concerned.

### **TITLE II**

#### **Fishery products**

##### *Article 4*

The fishery products referred to in Article 1 of Regulation (EEC) No 100/76 shall be imported free of customs duties.

### **TITLE III**

#### **Oils and fats**

##### *Article 5*

The oil and fat products referred to in Article 1 (2) (a) and (b) of Regulation No 136/66/EEC shall be imported free of customs duties.

##### *Article 6*

Should the volume of imports of any of the oil seeds falling within subheading ex 12.01 B of the Common

(1) OJ No L 18, 27. 1. 1976, p. 1.

(2) OJ No L 201, 31. 7. 1975, p. 5.

Customs Tariff, referred to in Article 1 (2) (a) of Regulation No 136/66/EEC, undergo appreciable changes in relation to the present situation, the Council, acting by a qualified majority on a proposal from the Commission, shall adopt special measures.

#### TITLE IV

##### Cereals

###### Article 7

1. The levy applicable to imports of maize falling within subheading 10.05 B of the Common Customs Tariff shall be that fixed in accordance with Article 13 of Regulation (EEC) No 2727/75, reduced by 1.50 units of account per metric ton.

2. The levy applicable to imports of millet falling within subheading 10.07 B of the Common Customs Tariff and of grain sorghum falling within subheading 10.07 C of the Common Customs Tariff shall be that fixed in accordance with Article 13 of Regulation (EEC) No 2727/75, reduced by 50 %.

#### TITLE V

##### Rice

###### Article 8

The levy applicable to imports of rice falling within heading No 10.06 of the Common Customs Tariff shall be equal, per 100 kg of product, to the levy applicable to imports of rice from third countries, reduced as follows;

(a) for paddy rice falling within subheading 10.06 A I of the Common Customs Tariff:

- by 50%, and
- by 0.30 unit of account;

(b) for husked rice falling within subheading 10.06 A II of the Common Customs Tariff:

- by 50%, and
- by 0.30 unit of account;

(c) for semi-milled rice falling within subheading 10.06 B I of the Common Customs Tariff:

- by the amount for the protection of the industry referred to in Article 14 (3) of Regulation No 359/67/EEC, converted by reference to the conversion rate between

milled rice and semi-milled rice referred to in the third indent of Article 19 (a) of that Regulation,

- by 50% of the levy thus reduced, and
- by 0.45 unit of account;

(d) for milled rice falling within subheading 10.06 B II of the Common Customs Tariff:

- by the amount for the protection of the industry referred to in Article 14 (3) of Regulation No 359/67/EEC,
- by 50% of the levy thus reduced, and
- by 0.45 unit of account;

(e) for broken rice falling within subheading 10.06 C of the Common Customs Tariff:

- by 50%, and
- by 0.25 unit of account.

###### Article 9

1. The provisions of Article 8 shall apply only if the cif export price of a given quantity, increased by the levy applicable to imports of rice originating in the ACP States or in the countries and territories is, at the time of exportation, for that quantity, equal to or more than:

- for husked rice, milled rice and broken rice, the threshold price of each of these products, reduced by amounts of 0.30, 0.45 and 0.25 unit of account respectively;
- for paddy rice, the threshold price of husked rice adjusted by reference to the conversion rate, processing costs and the value of the by-products to be taken for conversion from the husked state to the paddy state, reduced by an amount of 0.30 unit of account;
- for semi-milled rice, the threshold price of milled rice adjusted by reference to the conversion rate, processing costs and the value of the by-products to be taken for conversion from the round grain milled state to the round grain semi-milled state, reduced by an amount of 0.45 unit of account.

2. In order to permit the necessary checks, the documents accompanying the goods must show the cif price at which the product is sold and the date of exportation, together with all details regarding quality enabling the product to be defined. These documents must be stamped by the competent authorities of the exporting ACP States, countries or territories.

*Article 10*

1. Article 13 (2) of Regulation No 359/67/EEC shall not apply to the levies to be charged on imports of rice originating in the ACP States or in the countries and territories.

2. As regards such imports, however, the levy applicable on the day of exportation shall be applied, if the applicant so requests when applying for the licence referred to in Article 10 (1) of Regulation No 359/67/EEC, to an importation to be effected during the period of validity of the licence.

*Article 11*

Where, in the course of a year, imports into the Community of rice originating in an ACP State or in a country or territory exceed a quantity equivalent to the average quantity of annual imports into the Community of the origin in question over the last three years for which statistics are available, plus 5%, the provisions of Article 8 shall be totally or partially suspended in respect of the products of the origin in question in accordance with the procedure laid down in Article 26 of Regulation No 359/67/EEC.

In such a case, the Commission shall report to the Council which, acting by a qualified majority on a proposal from the Commission, shall decide on the treatment to be applied to the imports concerned.

TITLE VI

Products processed from cereals and rice

*Article 12*

1. The levy applicable to imports of the products listed in Annex A to Regulation (EEC) No 2727/75 and of the products listed in Article 1 (1) (c) of Regulation No 359/67/EEC shall be equal to the levy applicable to imports of those products from third countries reduced by the fixed component specified for each of the products in question.

2. The variable component of the levy shall be reduced:

- by 0.15 unit of account per 100 kg for the products falling within subheading 07.06 A of the Common Customs Tariff;
- 0.30 unit of account per 100 kg for the products falling within heading No 11.06 of the Common Customs Tariff;
- by 50% for the products falling within subheading 11.08 A V of the Common Customs Tariff.

3. The variable component of the levy shall not be charged in respect of the following products originating in the countries and territories:

CCT heading No	Description of goods
07.06	Manioc, arrowroot, salep, Jerusalem artichokes, sweet potatoes and other similar roots and tubers with high starch or inulin content, fresh or dried, whole or sliced; sago pith: ex A. Manioc, arrowroot, salep and other similar roots and tubers with high starch content, excluding sweet potatoes: — Arrowroot
11.06	Flours and meal of sago and of manioc, arrowroot, salep and other roots and tubers falling within heading No 07.06: ex A. Denatured: — Flours and meal of arrowroot B. Other: ex I. For the manufacture of starches: — Flours and meal of arrowroot ex II. Other: Flours and meal of arrowroot
11.08	Starches; inulin: A. Starches: ex V. Other: — Arrowroot starch

TITLE VII

Fruit and vegetables

Article 13

1. The products listed below shall be imported free of customs duties:

CCT heading No	Description of goods
07.01	Vegetables, fresh or chilled: F. Leguminous vegetables, shelled or unshelled G. Carrots, turnips, salad beetroot, salsify, celeriac, radishes and similar edible roots: ex IV. Other: — Radishes ( <i>Raphanus sativus</i> ), known as 'Mooli' S. Sweet peppers T. Other
08.02	Citrus fruit, fresh or dried: D. Grapefruit E. Other
08.08	Berries, fresh: E. Papaws ex F. Other: — Passion fruit
08.09	Other fruit, fresh

2. The products listed below shall be imported subject to customs duties equal to 20 % of the Common Customs Tariff duties:

CCT heading No	Description of goods
08.02	Citrus fruit, fresh or dried: A. Oranges B. Mandarins including tangerines and satsumas; clementines, wilkings and other similar citrus hybrids

TITLE VIII

Products processed from fruit and vegetables

Article 14

1. The products listed in Article 1 of Regulation (EEC) No 865/68 shall be imported free of customs duties.

2. Levies shall not be charged on imports of the products listed below:

CCT heading No	Description of goods
20.06	<p>Fruit otherwise prepared or preserved, whether or not containing added sugar or spirit:</p> <p>B. Other:</p> <p>I. Containing added spirit:</p> <p>b) Pineapples, in immediate packings of a net capacity:</p> <p>1. Of more than 1 kg:</p> <p>aa) With a sugar content exceeding 17% by weight</p> <p>2. Of 1 kg or less:</p> <p>aa) With a sugar content exceeding 19% by weight</p> <p>e) Other fruits:</p> <p>ex 1. With a sugar content exceeding 9% by weight:</p> <p>— Grapefruit segments</p> <p>II. Not containing added spirit:</p> <p>a) Containing added sugar, in immediate packings of a net capacity of more than 1 kg:</p> <p>2. Grapefruit segments</p> <p>5. Pineapples:</p> <p>aa) With a sugar content exceeding 17% by weight</p> <p>9. Mixtures of fruit:</p> <p>ex aa) Mixtures in which no single fruit exceeds 50% of the total weight of the fruits:</p> <p>— Mixtures of pineapples, papaws and pomegranate</p> <p>ex bb) Other:</p> <p>— Mixtures of pineapples, papaws and pomegranate</p> <p>b) Containing added sugar, in immediate packings of a net capacity of 1 kg or less:</p> <p>2. Grapefruit segments</p> <p>5. Pineapples:</p> <p>aa) With a sugar content exceeding 19% by weight</p> <p>9. Mixtures of fruit:</p> <p>ex aa) Mixtures in which no single fruit exceeds 50% of the total weight of the fruits:</p> <p>— Mixtures of pineapples, papaws and pomegranate</p> <p>ex bb) Other:</p> <p>— Mixtures of pineapples, papaws and pomegranate</p>

CCT heading No	Description of goods
20.07	Fruit juices (including grape must) and vegetable juices, whether or not containing added sugar, but unfermented and not containing spirit: B. Of a specific gravity of 1.33 or less at 15 °C: II. Other: b) Of a value of 30 u.a. or less per 100 kg net weight: 5. Pineapple juice: aa) With an added sugar content exceeding 30% by weight 8. Mixtures: bb) Other: ex 11. With an added sugar content exceeding 30% by weight: — Pineapple, papaw and pomegranate juice

TITLE IX

Unmanufactured tobacco

Article 15

The tobacco products listed in Article 1 of Regulation (EEC) No 727/70 shall be imported free of customs duties.

Article 16

If serious disruptions occur as a result of a large increase in duty-free imports of the products falling within heading No 24.01 of the Common Customs Tariff, originating in the ACP States or in the countries an territories, or if these imports create difficulties which bring about a deterioration in the economic situation of a region of the Community, the Community may, without prejudice to Article 24, take measures intended to offset any deflection of trade.

TITLE X

Goods to which Regulation (EEC) No 1059/69 applies

Article 17

1. No fixed component shall be charged on imports of goods to which Regulation (EEC) No 1059/69 applies.
2. The variable component shall not be charged on imports of the goods listed below:

CCT heading No	Description of goods
17.04	<p>Sugar confectionery, not containing cocoa:</p> <p>C. White chocolate</p>
18.06	<p>Chocolate and other food preparations containing cocoa:</p> <p>C. Chocolate and chocolate goods, whether or not filled; sugar confectionery and substitutes therefor made from sugar substitution products, containing cocoa</p>
19.02	<p>Preparations of flour, meal, starch or malt extract, of a kind used as infant food or for dietetic or culinary purposes, containing less than 50% by weight of cocoa:</p> <p>B. Other:</p> <p>I. Containing no milk fats or containing less than 1.5% by weight of such fats:</p> <p>d) Containing 45% or more but less than 65% by weight of starch</p>
19.04	<p>Tapioca and sago; tapioca and sago substitutes obtained from potato or other starches</p>
19.07	<p>Bread, ships' biscuits and other ordinary bakers' wares, not containing added sugar, honey, eggs, fats, cheese or fruit:</p> <p>D. Other, containing by weight of starch:</p> <p>ex II. 50% or more, excluding ships' biscuits</p>
19.08	<p>Pastry, biscuits, cakes and other fine bakers' wares, whether or not containing cocoa in any proportion:</p> <p>B. Other:</p> <p>IV. Containing 50% or more but less than 65% by weight of starch:</p> <p>a) Containing no sucrose or containing less than 5% by weight of sucrose (including invert sugar expressed as sucrose):</p> <p>ex 1. Containing no milk fats or containing less than 1.5% by weight of such fats:</p> <p>— Biscuits</p> <p>V. Containing 65% or more by weight of starch:</p> <p>ex a) Containing no sucrose or containing less than 5% by weight of sucrose (including invert sugar expressed as sucrose):</p> <p>— Biscuits</p> <p>ex b) Other:</p> <p>— Biscuits</p>



ANNEX I

**List of the countries and territories referred to in Article 1**

(This list does not prejudice the status of these countries and territories now or in the future.)

1. Overseas countries of the Kingdom of the Netherlands:
    - the Netherlands Antilles (Aruba, Bonaire, Curaçao; St Maria, Saba, St Eustatius).
  
  2. Overseas territories of the French Republic:
    - Saint Pierre and Miquelon,
    - Mayotte,
    - Territory of the Afars and Issas,
    - New Caledonia and Dependencies,
    - Wallis and Futuna Islands,
    - French Polynesia,
    - French Southern and Antarctic Territories.
  
  3. Overseas countries and territories of the United Kingdom of Great Britain and Northern Ireland:
    - Belize,
    - Brunei,
    - Associated States in the Caribbean (Antigua, Dominica, St Lucia, St Vincent, St Kitts, Nevis and Anguilla),
    - Cayman Islands,
    - Falkland Islands and Dependencies,
    - Gilbert Islands,
    - Solomon Islands,
    - Turks and Caicos Islands,
    - British Virgin Islands,
    - Montserrat,
    - Pitcairn,
    - St Helena and Dependencies,
    - Seychelles,
    - British Antarctic Territory,
    - British Indian Ocean Territory,
    - Tuvalu.
  
  4. Anglo-French Condominium of the New Hebrides.
  
  5. Countries provisionally covered by this Regulation:
    - The Comoros,
    - Surinam.
-

ANNEX II

on the application of Article 24 (3) and (4)

*Article 1*

1. At the request of a Member State or on its own initiative the Commission may decide to apply to products originating in the countries and territories the safeguard measures which the Community may take pursuant to Article 24 (3) and (4) of the Regulation, in particular a temporary, total or partial suspension of the tariff and other measures provided for by the Decision for the benefit of the countries and territories.

If the Commission receives a request from a Member State, it shall take a decision thereon within three working days following receipt of the request.

Member States shall be notified of the safeguard measures which shall apply immediately.

2. Any Member State may refer the measures taken by the Commission to the Council within 10 working days following the date of notification of such a measure. The Council shall meet without delay. Acting by a qualified majority, it may amend or rescind the measure in question.

*Article 2*

1. Without prejudice to the application of Article 1, the Commission may, in order to enable a Member State to face up to the disturbances or difficulties referred to in Article 24 (3) and (4) of the Regulation, authorize that Member State to take safeguard measures.

If the Commission has received a request from the Member State concerned, it shall take a decision thereon within three working days following receipt of the request.

The Commission's decision shall be notified to all Member States.

2. Any Member State may refer the Commission's decision to the Council within 10 working days of notification of that decision. The Council shall meet without delay. Acting by a qualified majority, it may amend or annul the decision taken by the Commission.

*Article 3*

1. Without prejudice to the application of Article 2, the Member State or States concerned may, in an emergency, introduce safeguard measures. They shall notify the other Member States and the Commission of such measures forthwith.

Using an emergency procedure, the Commission shall, within five working days of the notification referred to in the first subparagraph, decide whether the measures are to be retained, amended or abolished.

The Commission's decision shall be notified to all Member States. It shall be immediately enforceable.

2. Any Member State may refer the Commission's decision to the Council within 10 working days of notification of that decision. The Council shall meet without delay. Acting by a qualified majority, it may amend or annul the decision taken by the Commission.

If the matter is referred to the Council by the Member State which has taken safeguard measures, the Commission's decision shall be suspended. The suspension shall cease to apply 30 days after the matter has been referred to the Council if the latter has not by then amended or annulled the Commission's decision.

3. For the purposes of applying this Article, priority must be given to such measures as will least disturb the functioning of the common market.

*Article 4*

This Annex shall not preclude application of the Regulations establishing a common organization of agricultural markets or of Community or national administrative provisions resulting therefrom, or of the specific Regulations adopted pursuant to Article 235 of the Treaty for processed agricultural products. It shall be implemented as a complement to these instruments.

TITLE XI

**Other markets subject to common organization**

*Article 18*

The products referred to in Regulations (EEC) No 234/68, (EEC) No 827/68, (EEC) No 1308/70, (EEC) No 1696/71, (EEC) No 2358/71 and (EEC) No 1067/74 shall be imported free of customs duties.

TITLE XII

**Provisions relating to the French overseas departments**

*Article 19*

The levies shall not be applied to imports into the French overseas departments of the products listed below originating in the ACP States or in the countries and territories:

CCT heading No	Description of goods
01.02	Live animals of the bovine species: A. Domestic species: II. Other
02.01	Meat and edible offals of the animals falling within heading No 01.01, 01.02, 01.03 or 01.04, fresh, chilled or frozen: A. Meat: II. Of bovine animals: a) Of domestic bovine animals
10.06	Rice

*Article 20*

1. The levy applicable to imports into the French overseas departments of maize falling within subheading 10.05 B of the Common Customs Tariff originating in the ACP States or in the countries and territories shall be that fixed in accordance with Article 13 of Regulation (EEC) No 2727/75 reduced by six units of account per metric ton.

2. If imports into the French overseas departments of maize originating in the ACP States or in the countries and territories have exceeded 4 500 metric tons in a year, and if such imports are causing or are likely to cause serious disturbances in the market, the Commission shall take the necessary measures, at the request of a Member State or on its own initiative.

3. Any Member State may, within three working days of notification of the measure taken by the Commission, refer that measure to the Council. The Council shall meet forthwith. It may amend or declare void the measure in question, acting by a qualified majority.

TITLE XIII

**General and final provisions**

*Article 21*

The reductions provided for by this Regulation shall be calculated by reference to:

- the variable components of levies where the levies contain such components,
- in other cases, the levies,

applicable to imports from third countries into the Community as originally constituted.

However, during the period of application of accession compensatory amounts in trade between the Community as originally constituted and the new Member States, measures to prevent deflections of trade shall be taken in accordance with the procedure laid down in Article 22, if this proves necessary.

#### *Article 22*

If necessary, detailed rules for the application of this Regulation shall be adopted in accordance with the procedure laid down in Article 26 of Regulation (EEC) No 2727/75 or, as the case may be, in the corresponding Articles of the other Regulations on the common organization of the agricultural markets.

#### *Article 23*

This Regulation shall not prejudice the application of Article 38 of the Act of Accession.

#### *Article 24*

1. The safeguard clauses provided for in the Regulations on the common organization of the agricultural markets and in the specific rules introduced as a result of the implementation of the common agricultural policy shall be applicable to the products covered by this Regulation.

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

Done at Brussels, 30 March 1976.

2. As regards relations with the ACP States, Regulation (EEC) No 157/76 shall apply as a complementary measure.

3. As regards the countries and territories, the provisions of paragraph 4 and of Annex II and the similar provisions which replace them in the Decision to be taken on the association of the countries and territories shall also apply as complementary measures.

4. If, as a result of applying the provisions of this Regulation to originating products imported from the countries and territories, serious disturbances occur in a sector of the economy of the Community or of one or more of its Member States, or their external financial stability is jeopardized, or if difficulties arise which may result in a deterioration in a sector of the economy of a region of the Community, the Commission may, in accordance with the procedure specified in Annex II, take, or authorize the Member States concerned to take, the necessary safeguard measures.

For the purpose of implementing the first subparagraph, priority shall be given to such measures as would least disturb the functioning of the association and the Community. These measures shall not exceed the limits of what is strictly necessary to remedy the difficulties that have arisen.

This paragraph and Annex II shall cease to apply as from the entry into force of the Decision to be taken on the association of the countries and territories.

#### *Article 25*

This Regulation shall enter into force on 1 April 1976.

It shall apply until 29 February 1980.

*For the Council*

*The President*

G. THORN

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REGULATION (EEC) No 3230/75 OF THE COUNCIL

of 9 December 1975

on the opening, allocation and administration of a Community tariff quota for products falling within subheading 22.09 C I of the Common Customs Tariff, originating in the ACP States

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 113 thereof;

Having regard to the proposal from the Commission;

Whereas under Article 2 (1) of the Convention signed between the ACP States and the European Economic Community on 28 February 1975, and under Protocol 7 annexed thereto, until the entry into force of a common organization of the market in spirits, products falling within tariff subheading 22.09 C. I (rum, arrack, tafio), originating in the ACP States, shall be imported into the Community free of customs duties under conditions such as to permit the development of traditional trade flows between the ACP States and the Community and between the Member States; whereas the Community shall fix each year the quantities which may be imported free of customs duties on the basis of the largest quantities imported annually from the ACP States into the Community in the last three years for which statistics are available, increased by an annual growth rate of 40% on the market of the United Kingdom and 13% on the other markets of the Community, these growth rates being based on foreseeable internal demand in each Member State; whereas the exchange of letters at Lomé on 28 February 1975 relating to the advance implementation of certain provisions of the said Convention provides in particular that the European Economic Community shall apply the said Protocol 7 autonomously as from 1 July 1975;

Having regard to the levels reached by imports of the products concerned into the Community and the Member States during the last three years for which statistical information is available;

Whereas Council Regulation (EEC) No 1600/75 (1) of 24 June 1975 on the opening, allocation and administration of a Community tariff quota for products falling within subheading 22.09 C I of the Common Customs Tariff originating in the ACP States laid

down conditions for the advance implementation of the provisions concerned for the period from 1 July to 31 December 1975; whereas in the light of experience, identical conditions should be laid down for the implementation of Protocol 7 of the ACP-EEC Convention of Lomé for the 12 month period ending on 30 June 1976;

Whereas the volume of the tariff quota should consequently be fixed annually on the basis of the statistical information and estimated consumption used when Regulation (EEC) No 1600/75 was drawn up; whereas the volume of the tariff quota should accordingly be fixed at 168 000 hectolitres of pure alcohol, the quantities actually imported under Regulation (EEC) No 1600/75 being deducted from this volume;

Whereas the above principles also apply to the allocation of the tariff quota;

Whereas it seems likely that arrangements for using the tariff quota based on allocation between the United Kingdom and the other Member States would reconcile the application of the growth rates provided for in Protocol 7 with the uninterrupted application of the duty-free entry arrangements in respect of the said quota to all imports of the products concerned into the Member States until the quota is exhausted; whereas, in order to reflect as closely as possible the actual trends on the markets in the products concerned, such allocation should be made in accordance with the requirements of the Member States;

Whereas measures should be laid down to ensure that Protocol 7 is implemented under conditions such as to permit the development of traditional trade flows between the ACP States and the Community and between the Member States;

Whereas, since the Kingdom of Belgium, the Kingdom of the Netherlands and the Grand Duchy of Luxembourg are jointly represented by the Benelux Economic Union, any measure concerning the administration of the shares allocated to that economic union may be carried out by any one of its members,

(1) OJ No L 166, 28. 6. 1975, p. 81.

HAS ADOPTED THIS REGULATION:

*Article 1*

From 1 July 1975 until 30 June 1976 rum, arrack and tafia falling within subheading 22.09 C I of the Common Customs Tariff, originating in the ACP States, shall be imported duty free into the Community within the limits of a Community tariff quota of 168 000 hectolitres of pure alcohol.

These products are considered as originating in the ACP States if they fulfil the conditions laid down in Council Regulation (EEC) No 1598/75<sup>(1)</sup> of 24 June 1975 on the advance implementation of certain provisions of the ACP-EEC Convention of Lomé relating to trade in goods.

*Article 2*

1. The tariff quota referred to in Article 1 shall be divided into two instalments. The first instalment of 128 000 hectolitres of pure alcohol shall be for United Kingdom consumption. The second instalment of 40 000 hectolitres of pure alcohol shall be allocated amongst the other Member States.

2. The shares of each of the Member States to which the second instalment is allocated pursuant to paragraph 1 shall be valid until the end of the period stipulated in Article 1 and shall consist of the following quantities, indicated in hectolitres, of pure alcohol:

Benelux :	3 500
Denmark :	2 900
Germany :	26 000
France :	6 000
Ireland :	1 000
Italy :	600

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

Done at Brussels, 9 December 1975.

*Article 3*

The quantities actually imported under Regulation (EEC) No 1600/75 when the present Regulation enters into force shall be deducted from the volume of the quota referred to in Article 1 and the instalments and shares specified in Article 2.

*Article 4*

Member States shall manage the shares allocated to them in accordance with their own arrangements.

*Article 5*

Member States shall inform the Commission each month of imports actually charged against the tariff quota.

The United Kingdom shall take the steps necessary to ensure that the quantities imported from the ACP States under the conditions laid down in Articles 1 and 2 are restricted to those meeting its domestic consumption requirements.

*Article 6*

Articles 5, 6, 7 and 8 of Regulation (EEC) No 1598/75 shall apply in respect of the products covered by this Regulation.

*Article 7*

The Member States and the Commission shall cooperate closely in order to ensure compliance with this Regulation.

*Article 8*

This Regulation shall enter into force on 1 January 1976.

*For the Council*

*The President*

M. RUMOR

<sup>(1)</sup> OJ No L 166, 28. 6. 1975, p. 1.

**COUNCIL REGULATION (EEC) No 1464/76**

**of 21 June 1976**

**on the opening, allocation and administration of a Community tariff quota for rum, arrack and tafia falling within subheading 22.09 C I of the Common Customs Tariff and originating in the ACP States (1976/77)**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission,

Whereas under the ACP-EEC Convention of Lomé signed on 28 February 1975, and in particular under Protocol 7 thereto, products originating in the ACP States which fall within tariff subheading 22.09 C I (rum, arrack, tafia), shall, until the entry into force of a common organization of the market in spirits, be imported into the Community free of customs duties under conditions such as to permit the development of traditional trade flows between the ACP States and the Community and between the Member States; whereas the Community shall fix each year the quantities which may be imported free of customs duties on the basis of the largest quantities imported annually from the ACP States into the Community in the last three years for which statistics are available, increased by an annual growth rate of 40 % on the market of the United Kingdom and 13 % on the other markets of the Community, these growth rates being based on foreseeable internal demand in each Member State;

Having regard to the levels reached by imports of the products concerned into the Community and the Member States during the last three years for which statistics are available; whereas the size of the tariff quota for the period 1 July 1976 to 30 June 1977 should therefore be fixed at 162 013 hectolitres of pure alcohol;

Whereas the above principles also apply to the allocation of the tariff quota;

Whereas it seems likely that arrangements for using the Community tariff quota based on allocation between the United Kingdom and the other Member States would reconcile the application of the growth rates provided for in Protocol 7 with the uninterrupted application of the duty-free entry arrangements in respect of the said quota to all imports of the

products concerned into the Member States until the quota is exhausted; whereas, in order to reflect as closely as possible the actual trends on the markets in the products concerned, such allocation should be made in accordance with the requirements of the Member States;

Whereas measures should be laid down to ensure that Protocol 7 is implemented under conditions such as to permit the development of traditional trade flows between the ACP States and the Community and between the Member States;

Whereas, owing to the special character of the products in question and their sensitivity on Community markets, exceptional provision should be made for a method of use based on a single division among Member States;

Whereas, since the Kingdom of Belgium, the Kingdom of the Netherlands and the Grand Duchy of Luxembourg are jointly represented by the Benelux Economic Union, any measures concerning the administration of the share allocated to that economic union may be carried out by any one of its members.

HAS ADOPTED THIS REGULATION

*Article 1*

From 1 July 1976 until 30 June 1977 rum, arrack and tafia falling within subheading 22.09 C I of the Common Customs Tariff, originating in the ACP States, shall be imported duty free into the Community within the limits of a Community tariff quota of 162 013 hectolitres of pure alcohol.

*Article 2*

1. The tariff quota referred to in Article 1 shall be divided into two instalments. The first instalment, of 125 395 hectolitres of pure alcohol, shall be for United Kingdom consumption. The second instalment, of 36 618 hectolitres of pure alcohol, shall be allocated among the other Member States.



2. The shares of each of the Member States to which the second instalment is allocated pursuant to paragraph 1 shall consist of the following quantities:

Benelux	3 697,
Denmark	2 700,
Germany	16 620,
France	12 051,
Ireland	1 000,
Italy	550.

*Article 3*

1. Member States shall manage the shares allocated to them in accordance with their own arrangements.
2. The extent to which the Member States have used up their shares shall be determined on the basis of the imports of the products in question, originating in the ACP States, declared at customs for clearance for home use.

*Article 4*

1. Member States shall inform the Commission each month of imports actually charged against the tariff quota.
2. The United Kingdom shall take the steps necessary to ensure that the quantities imported from the

ACP States under the conditions laid down in Articles 1 and 2 are restricted to those meeting its domestic consumption requirements.

3. The Commission shall regularly inform the Member States of the extent to which the tariff quota has been used up.

4. Where necessary, consultations may be held at the request of a Member State or on the initiative of the Commission.

*Article 5*

The Commission shall take all necessary measures, in close cooperation with the Member States, to ensure the implementation of this Regulation.

*Article 6*

Council Regulation (EEC) No 157/76 of 20 January 1976 on the safeguard measures provided for in the ACP-EEC Convention of Lomé<sup>(1)</sup>, shall apply in respect of the products covered by this Regulation.

*Article 7*

This Regulation shall enter into force on 1 July 1976.

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

Done at Luxembourg, 21 June 1976.

*For the Council*  
*The President*  
J. HAMILIUS

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<sup>(1)</sup> OJ No L 18, 27. 1. 1976, p. 1.

REGULATION (EEC) No 3328/75 OF THE COUNCIL

of 18 December 1975

renewing the arrangements for the reduction of import charges on beef and veal products originating in the African, Caribbean and Pacific States

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 43 thereof;

Having regard to the proposal from the Commission;

Having regard to the Opinion of the European Parliament (1);

Whereas Article 2 (2) and (3) of Council Regulation (EEC) No 1599/75 (2) of 24 June 1975 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 provides, as partial compensation for the import charges leviable by reason of the current trend of the world market, for a reduction in the charges, other than customs duties, on imports of the products originating in the ACP States, referred to in Article 1 (a) of Council Regulation (EEC) No 805/68 (3) of 27 June 1968 on the common organization of the market in beef and veal, as last amended by Regulation (EEC) No 1855/74 (4), provided that an export tax of a corresponding amount has been applied by the exporting country; whereas these special arrangements are to apply only until 31 December 1975;

Whereas this reduction in import charges applies only to those quantities for which importation is authorized under the provisions adopted pursuant to Article 21 of Regulation (EEC) No 805/68;

Whereas the conditions which led to the application of these measures have not altered since; whereas, in order to enable the countries involved to maintain traditional trade flows, under the current market price situation obtaining in those countries and in the Community, it is necessary to continue to apply exceptional arrangements for the first half of 1976, while allowing for such arrangements to be revised, particularly in the event of a change in import conditions,

(1) Opinion delivered on 15. 12. 1975 (not yet published in the Official Journal).

(2) OJ No L 166, 28. 6. 1975, p. 67.

(3) OJ No L 148, 28. 6. 1968, p. 24.

(4) OJ No L 195, 18. 7. 1974, p. 14.

HAS ADOPTED THIS REGULATION:

*Article 1*

1. The charges on imports of the products originating in the ACP States referred to in Article 1 (a) of Regulation (EEC) No 805/68 shall be reduced, within the limits of the quantities specified in Article 2, by an amount to be fixed quarterly by the Commission and corresponding to 90 % of the average of the import charges applicable during a reference period.

2. Paragraph 1 shall apply only to imports for which the importer proves that an export tax of an amount corresponding to the reduction provided for in that paragraph has been charged by the exporting country.

*Article 2*

The reduction provided for in Article 1 shall be subject to an overall maximum, expressed in terms of boned meat, of 13 766 metric tons, allocated as follows:

Botswana	8 680 metric tons,
Kenya	65 metric tons,
Madagascar	3 478 metric tons,
Swaziland	1 543 metric tons.

*Article 3*

1. Detailed rules for the application of this Regulation shall be adopted in accordance with the procedure provided for in Article 27 of Regulation (EEC) No 805/68.

These detailed rules shall concern in particular:

- (a) the basis for calculation and the period of reference to be taken into consideration for the purpose of fixing the amount by which the import charges are to be reduced;
- (b) rules for fixing the corresponding amount to be charged by the exporting country;
- (c) the issue of import licences;
- (d) admissible proof and inspection measures.

2. Under the same procedure derogation may be made from the principle of quarterly fixing and from the rules concerning the reference period, if a change in the representative rate of the currency of a Member State or the transition from one marketing year to the next so requires.

3. The Council, acting by a qualified majority on a proposal from the Commission, may, in the light of changes in the beef and veal market or in the factors

governing imports into the Community of the products in question originating in the ACP States, modify or abrogate the arrangements provided for in this Regulation.

*Article 4*

This Regulation shall enter into force on 1 January 1976.

It shall remain applicable until 30 June 1976.

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

Done at Brussels, 18 December 1975.

*For the Council*

*The President*

M. TOROS

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**COUNCIL REGULATION (EEC) No 1466/76**

of 21 June 1976

**extending the arrangements laid down in Regulation (EEC) No 3328/75 for imports of beef and veal originating in certain African, Caribbean and Pacific States**

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission, Having regard to the opinion of the European Parliament<sup>(1)</sup>,

Whereas Council Regulation (EEC) No 3328/75 of 18 December 1975 renewing the arrangements for the reduction of import charges on beef and veal products originating in the African, Caribbean and Pacific States<sup>(2)</sup>, applies only until 30 June 1976; whereas the conditions which led to the application of these exceptional measures still exist and it is therefore necessary to extend the arrangements which result therefrom until such time as there is a change in the import conditions,

HAS ADOPTED THIS REGULATION:

*Article 1*

Article 2 of Regulation (EEC) No 3328/75 shall be replaced by the following:

*Article 2*

The reduction provided for in Article 1 shall be subject to an overall maximum, expressed in terms

of boned meat, of 27 532 metric tons per annum allocated as follows:

Botswana	17 360 metric tons,
Kenya	130 metric tons,
Madagascar	6 956 metric tons,
Swaziland	3 086 metric tons.

*Article 2*

Article 3 (3) of Regulation (EEC) No 3328/75 shall be replaced by the following:

'3. The Council, acting by a qualified majority on a proposal from the Commission, may, in the light of changes in the beef and veal market, of conditions for the import of beef and veal or in the factors governing imports into the Community of the products in question originating in the ACP States, modify or abrogate the arrangements provided for in this Regulation.'

*Article 3*

The second paragraph of Article 4 of Regulation (EEC) No 3328/75 shall be replaced by the following:

'It shall remain applicable until 31 December 1976.'

*Article 4*

This Regulation shall enter into force on the third day following its publication in the *Official Journal of the European Communities*.

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

Done at Luxembourg, 21 June 1976.

*For the Council*

*The President*

J. HAMILIUS

<sup>(1)</sup> Opinion delivered on 18 June 1976 (not yet published in the Official Journal)

<sup>(2)</sup> OJ No L 329, 23 12 1975, p. 4



## COUNCIL

### COUNCIL DECISION

of 21 April 1975

on the definition and conversion of the European unit of account used for expressing the amounts of aid mentioned in Article 42 of the ACP-EEC convention of Lomé

(75/250/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the recommendation of the Commission ;

Having regard to the report of the Monetary Committee ;

Whereas at the signing of the ACP-EEC convention of Lomé on 28 February 1975, the Community declared that the Council would have to define the European unit of account to be used for expressing the amounts of aid mentioned in Article 42 of the said convention ;

Whereas the unit of account has been established on the basis of an initial value equivalent to the value fixed by the International Monetary Fund on 28 June 1974 for the special drawing right ;

Whereas the unit of account should represent the average of any changes in the value of the currencies of the Member States of the Community,

HEREBY DECIDES :

#### *Article 1*

The amounts of aid mentioned in Article 42 of the ACP-EEC convention of Lomé shall be expressed in a unit of account, defined as the sum of the following amounts in the currencies of the Member States of the Community :

German mark	0.828
Pound sterling	0.0885
French franc	1.15
Italian lira	109
Dutch guilder	0.286
Belgian franc	3.66
Luxembourg franc	0.14
Danish krone	0.217
Irish pound	0.00759

#### *Article 2*

The value of the unit of account in any given currency shall be equal to the sum of the equivalents in that currency of the amounts of currency referred to in Article 1. It shall be calculated by the Commission using daily market exchange rates.

The daily values of the unit of account in the various national currencies shall be made available every day and shall be published periodically in the *Official Journal of the European Communities*.

Done at Luxembourg, 21 April 1975.

*For the Council*

*The President*

R. RYAN

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## FINANCIAL REGULATION

of 27 July 1976

applicable to the fourth European Development Fund

(76/647/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community,

Having regard to the ACP-EEC Convention of Lomé<sup>(1)</sup>, signed on 28 February 1975, hereinafter referred to as 'the Convention',

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<sup>(2)</sup>,

Having regard to Council Decision 75/250/EEC of 21 April 1975 on the definition and conversion of the European unit of account used for expressing the amounts of aid mentioned in Article 42 of the ACP-EEC Convention of Lomé<sup>(3)</sup>,

Having regard to the Internal Agreement on the financing and administration of Community aid<sup>(4)</sup> signed on 11 July 1975, hereinafter referred to as

'the Internal Agreement', and in particular Article 30 thereof,

Having regard to the draft Financial Regulation presented by the Commission,

Having regard to the opinion of the European Investment Bank, hereinafter referred to as 'the Bank',

Whereas pursuant to Article 1(1) of the Internal Agreement the Member States have set up a fourth European Development Fund, hereinafter referred to as 'the EDF';

Whereas according to Article 30 of the Internal Agreement the provisions for implementing that Agreement shall be the subject of a Financial Regulation adopted, upon the entry into force of the Convention, by the Council acting by the qualified majority laid down in Article 18(4) of the said Agreement,

HAS ADOPTED THIS FINANCIAL REGULATION:

### TITLE I

#### FINANCIAL ARRANGEMENTS

##### *Article 1*

1. The financial contributions of the Member States shall be expressed in the European unit of account, hereinafter referred to as 'EUA', referred to in Article 3 of the Internal Agreement and defined by Decision 75/250/EEC. Each Member State shall pay the amount of its contribution in its national currency on the basis of the conversion rate calculated by the Commission pursuant to Article 2 of the said Decision.

2. The financial contributions shall be credited by each Member State to a special account entitled 'Commission of the European Communities — European Development Fund' opened with the Treasury of that Member State or the body designated by it.

3. Upon expiry of the Convention and Decision 76/568/EEC, that part of the contributions which the

Member States remain obliged to make shall be called up by the Commission, as required, on the conditions laid down in this Financial Regulation.

##### *Article 2*

1. The Council Decision provided for in the first subparagraph of Article 7(2) of the Internal Agreement and which relates to the schedule of calls for contributions, shall be notified to the Commission by 31 October each year.

2. The annual contributions shall normally be payable:

- (a) before 20 January for the requirements of the EDF as forecast for the first seven months of the year in question;
- (b) on 1 July for the balance of the annual contribution.

3. Each Member State shall make the payments referred to in paragraph 2 in proportion to its contributions as fixed in Article 1(2) of the Internal Agreement.

<sup>(1)</sup> OJ No L 25, 30. 1. 1976, p. 1.

<sup>(2)</sup> OJ No L 176, 1. 7. 1976, p. 8.

<sup>(3)</sup> OJ No L 104, 24. 4. 1975, p. 35.

<sup>(4)</sup> OJ No L 25, 30. 1. 1976, p. 168.



4. Supplementary payments decided upon pursuant to the second subparagraph of Article 7 (2) of the Internal Agreement shall, unless otherwise decided by the Council, be due and be made within as brief a period as possible, which may not in any case be more than three months.

#### Article 3

1. In each Member State the Commission shall hold, with the bank of issue or the financial institution designated by that Member State, accounts under the same name as that opened pursuant to Article 1 (2).

2. For operations which are not currently undertaken by banks of issue or by post office giro centres, or in order to facilitate the payments which it has to make, the Commission shall open accounts at one or more banks.

3. The signatures of the Commission officials empowered to carry out operations on the EDF's accounts shall be lodged when the accounts are opened or, in the case of officials who are authorized subsequently, when they are designated.

#### Article 4

1. The Commission shall use the funds credited to the accounts referred to in Article 3 to make the necessary payments and transfers.

2. The Commission shall, as far as possible, make any withdrawals from the special accounts referred

to in Article 1 (2) in such a way as to maintain a distribution of its assets amongst the various currencies corresponding to the proportion in which the currencies of the Member States enter into the composition of the EUA.

#### Article 5

By reference to the cash requirements for executing projects and programmes, the authorizing officer shall make the transfers needed to replenish the accounts opened on behalf of the Commission in accordance with Article 32 of Protocol 2 annexed to the Convention, hereinafter referred to as 'Protocol 2', and with Article 3 of this Financial Regulation.

#### Article 6

1. Any transfers of assets from the currency of one Member State into that of another Member State which have been requested by the Commission for the management of the EDF shall be made at the current rate of exchange by the banks of issue or the financial institutions approved by the Member States.

2. Any exchange differences and costs shall be charged against EDF resources.

#### Article 7

The Commission shall communicate to the Council each year a statement of contribution payments and a progress report on EDF operations.

## TITLE II

### MANAGEMENT OF THE EDF

#### SECTION I

##### GENERAL PROVISIONS

#### Article 8

1. The EDF shall be administered financially in accordance with the principle that the authorizing officers and accounting officers are separate individuals. The appropriations shall be administered by the authorizing officers, who alone shall have the power to enter into commitments regarding expenditure, establish sums due to be collected and issue proof of revenue and payments.

2. Collection and payment operations shall be carried out by the accounting officers.

3. An authorizing officer may not exercise the functions of financial controller or accounting officer.

#### Article 9

Within the limit of the appropriations provided for in Article 1 of the Internal Agreement the Commission shall, without prejudice to Article 11 (2) thereof, manage the EDF on its own responsibility under the conditions laid down in the Convention, in Decision 76/568/EEC, in the Internal Agreement and in this Financial Regulation. In accordance with Article 29 (1) of Protocol 2 the Commission shall appoint the chief authorizing officer of the EDF. The latter may have recourse to deputy authorizing

officers, whom he shall appoint subject to approval by the Commission. Each decision to delegate powers shall state the duration and extent of the mandate.

Those to whom powers are delegated may act only within the limits of the powers expressly conferred upon them.

*Article 10*

1. The Commission shall appoint the financial controller, who shall be responsible for monitoring the commitment, for authorizing expenditure and for monitoring revenue.
2. The special rules applicable to the financial controller shall be formulated in such a way as to ensure his independence in carrying out his duties. Measures taken in respect of his appointment and promotion, disciplinary action or transfers, and the various methods of interruption or termination of his appointment shall be the subject of reasoned decisions which shall be forwarded to the Council for information.
3. The person concerned or the Commission may institute proceedings before the Court of Justice.

*Article 11*

The collection of revenue and the payment of expenditure shall be carried out by an accounting officer appointed by the Commission. Subject to Article 33 (2) this accounting officer alone shall be empowered to manage funds and assets. He shall be responsible for their care.

*Article 12*

The Commission may delegate part of the duties of the accounting officer and part of the responsibility for monitoring to authorized agents appointed by it. The rules governing responsibilities adopted under this Title shall apply to such authorized agents within the limits of the powers delegated to them.

The principles of the provisions of this Financial Regulation relating to the monitoring and payment of expenditure shall be applicable to expenditure effected by delegation. Such expenditure may not be finally entered into the EDF accounts until the Commission has verified that the expenditure has been correctly cleared and that the authorization and payment are in order, in accordance with the requirements of this Regulation.

SECTION II

REVENUE

*Article 13*

1. The recovery of any sum due to the EDF shall give rise to the issue, by the authorizing officer, of a revenue order.
2. Revenue orders shall be transmitted by the authorizing officer to the financial controller and shall be subject to the latter's approval. The purpose of approval by the financial controller shall be to establish that:
  - (a) the revenue is correctly credited;
  - (b) the revenue order is in order and in conformity with the provisions applicable to the management of the EDF, with all acts taken in implementation of those provisions;
  - (c) the principles of sound financial management have been affected.
3. The financial controller may refuse his approval. The authorizing officer may, by means of a decision stating the full reasons therefor and on his sole responsibility, disregard this. The decision of the authorizing officer shall be implemented; it shall be communicated to the financial controller for information. The Commission shall inform the Audit Board provided for in Article 206 of the Treaty of each of these decisions.
4. When the authorizing officer waives the right to draw up a document establishing a debt or to recover sums due, he must inform the financial controller and the Audit Board.

When the financial controller finds that a document establishing a debt has not been drawn up or that a sum due has not been recovered, he shall inform the Commission thereof.

*Article 14*

1. The accounting officer shall assume responsibility for revenue orders forwarded to him by the authorizing officer.
2. The accounting officer shall do all in his power to ensure that EDF resources are recovered at the due dates and to ensure that the Community's rights are safeguarded.

3. The accounting officer shall inform the authorizing officer and the financial controller of any revenue not recovered within the time limits laid down.

#### Article 15

A receipt shall be issued in respect of all cash payments made to the accounting officer.

### SECTION III

#### COMMITMENT, CLEARANCE, AUTHORIZATION AND PAYMENT OF EXPENDITURE

##### 1. Commitment of expenditure

#### Article 16

1. All measures which may give rise to expenditure payable by the EDF must be preceded by a proposal for commitment of expenditure from the authorizing officer.

2. A provisional commitment may be entered into in respect of current expenditure.

3. An account shall be kept of commitments and authorizations.

#### Article 17

Proposals for commitments shall be referred to the financial controller. They shall in particular show the purpose of the expenditure, the estimated amount involved, the item to which it is to be charged and the name and description of the creditor. They shall be registered after approval by the financial controller.

#### Article 18

1. The purpose of approval by the financial controller shall be to establish that:

- (a) the expenditure has been charged to the correct item;
- (b) appropriations are available;
- (c) the expenditure is in order and in conformity with the provisions applicable to the management of the EDF and with all acts taken in implementation of those provisions, in particular the general and special clauses of the financing agreement relating to the operation;
- (d) the principles of sound financial management have been applied.

2. The financial controller shall take into account any observations made in the discharge decisions.

#### Article 19

1. Where the financial controller withholds his approval he shall furnish a written statement of his reasons therefor. The authorizing officer shall be notified accordingly.

Where approval is withheld and the authorizing officer maintains his proposal, the refusal shall be referred for a decision to the Commission.

2. Except where the availability of appropriations is in doubt, the Commission may, by means of a decision stating the full reasons therefor and on its sole responsibility, overrule such a refusal. This decision shall be implemented; it shall be communicated for information to the financial controller. The Commission shall inform the Audit Board of each of these decisions.

##### 2. Clearance of expenditure

#### Article 20

The purpose of clearance of expenditure by the authorizing officer shall be:

- (a) to verify the existence of the rights of the creditor;
- (b) to determine or verify the existence and the amount of the debt; and
- (c) to verify the conditions under which payment falls due.

#### Article 21

1. Clearance of any expenditure shall be subject to the submission of supporting documents showing the creditor's claim and, where appropriate, the service rendered.

2. However, for certain categories of expenditure, advances may be granted under the conditions laid down by the Commission.

3. The Commission shall lay down the nature and contents of the supporting documents to be enclosed with the payment orders.

4. The authorizing officer empowered to clear expenditure shall personally check the supporting documents or shall, on his own responsibility, ascertain that this has been done.

### 3. Authorization of expenditure

#### *Article 22*

Authorization shall be the act whereby the authorizing officer, by the issue of a payment order, authorizes the accounting officer to pay an item of expenditure which he has cleared.

#### *Article 23*

The payment order shall state:

- (a) the item against which payment shall be charged;
- (b) the amount to be paid;
- (c) the name and address of the payee;
- (d) the method of payment;
- (e) the purpose of the expenditure.

The payment order shall be dated and signed by the authorizing officer.

#### *Article 24*

1. The payment order shall be accompanied by the original supporting documents, which shall bear or be accompanied by the approval of the authorizing officer confirming that the amounts to be paid are correct, the receipt of the supplies or the performance of the service. The payment order shall show the numbers and dates of the relevant approvals of commitment.

2. Copies of the supporting documents, certified as true copies by the authorizing officer, may, in some cases, be accepted in place of the originals.

#### *Article 25*

1. For payments by instalment, the first payment order shall be accompanied by documents establishing the creditor's right to payment of the instalment in question.

2. Subsequent payment orders shall refer to the supporting documents already furnished and repeat the reference number of the first payment order.

#### *Article 26*

Payment orders shall be sent to the financial controller for prior approval. This prior approval shall confirm that:

- (a) the payment order was properly issued;

(b) the payment order agrees with the commitment of expenditure and that the amount thereof is correct;

(c) the expenditure is charged to the correct item;

(d) the appropriations are available;

(e) the supporting documents are in order;

(f) the payee is correctly described.

#### *Article 27*

Should approval be withheld, Article 19 shall apply.

#### *Article 28*

After approval, the original of the payment order, together with all supporting documents, shall be forwarded to the accounting officer.

### 4. Payment of expenditure

#### *Article 29*

1. Payment shall be the final act whereby the EDF is discharged of its obligations resulting from carrying out the operations financed.

2. Payment shall be made by the accounting officer within the limits of the funds available.

#### *Article 30*

In the event of a substantive error or of the validity of the discharge being contested or of failure to observe the formalities prescribed by this Financial Regulation, the accounting officer shall suspend payment.

#### *Article 31*

1. If payment is suspended, the accounting officer shall give the reasons therefor in a written statement which he shall send forthwith to the authorizing officer and, for information, to the financial controller.

2. Except where the validity of the discharge is contested the authorizing officer may, where payment is suspended, refer the matter to the Commission. The latter may require, in writing and on its own responsibility, that the withholding of payment be disregarded.

#### Article 32

1. Payments shall, as a general rule, be effected through a bank account or a post office giro account. The procedure for opening, administering and using such accounts shall be determined by the Commission.

2. The procedures referred to in paragraph 1 shall in particular require two signatures on cheques and on post office or bank transfer orders, one signature necessarily being that of the accounting officer or of a duly authorized administrator of advance funds; they shall, moreover, determine the expenditure whose payment must necessarily be effected either by cheque or by post office or bank transfer.

#### Article 33

1. For the payment of certain categories of expenditure funds for advances may be set up under the conditions laid down by the Commission.

2. The rules governing the management of the advance funds offices shall in particular concern:

- (a) the appointment of administrators of advance funds;
- (b) the nature and maximum amount of each expenditure to be incurred;
- (c) the maximum amount of the funds which may be advanced;
- (d) the procedures for the production of supporting documents and the time within which they must be produced;
- (e) the responsibility of the administrator of advance funds.

#### Article 34

The conversion rates to be used for the calculation in EUA of payments to be made for the purpose of the projects or programmes referred to in Title IV of the Convention and in the corresponding provisions of Decision 76/568/EEC shall be those in force on the effective date of such payments. This date shall correspond to that in which the Commission accounts referred to in Article 32 of Protocol 2, and in Article 3 were debited.

#### SECTION IV

#### RESPONSIBILITIES OF AUTHORIZING OFFICERS, FINANCIAL CONTROLLERS, ACCOUNTING OFFICERS AND ADMINISTRATORS OF ADVANCE FUNDS

#### Article 35

Without prejudice to Article 30 (5) of Protocol 2, authorizing officers who, when establishing entitlements to be recovered, when issuing collection

orders, entering into commitments of expenditure or signing payment orders, do so without complying with this Financial Regulation, shall be liable to disciplinary action and, where appropriate, to pay compensation. The same shall apply if they omit to draw up a document establishing a claim or if they neglect to issue revenue orders or are, without justification, late in issuing them.

#### Article 36

Financial controllers render themselves liable to disciplinary action and, where appropriate, to payment of compensation if they allow appropriations to be exceeded or are guilty of serious negligence in carrying out their duties.

#### Article 37

1. Accounting officers shall be liable to disciplinary action and, where appropriate, to payment of compensation as regards payments they make in disregard of Article 31.

They shall render themselves liable to disciplinary action and to payment of compensation as regards any loss or deterioration of the monies, assets and documents in their charge where such loss or deterioration results from an intentional mistake or serious negligence on their part.

Under the same conditions, they shall be responsible for the correct execution of orders received by them in respect of the use and administration of bank and post office giro accounts, and in particular:

- (a) if the payments or recoveries made by them do not agree with the amounts on the payment orders or collection orders;
- (b) if they effect payment to a party other than the entitled payee.

2. Administrators of advance funds shall be liable to disciplinary action and, where appropriate, to payment of compensation:

- (a) if they cannot show due warrant with proper documents for payments made by them;
- (b) if they effect payments to a party other than the entitled payee.

They shall be liable to disciplinary action and to payment of compensation in respect of any loss or deterioration of the monies, assets and documents in their charge as a result of an intentional mistake or serious negligence on their part.

3. Accounting officers and administrators of advance funds shall insure themselves against any financial risks they may incur *vis-à-vis* the Commission under this Article.

The Commission shall cover the relevant insurance costs. It shall specify the categories of officials

qualifying as accounting officers or administrators of advance funds and the terms on which it shall cover the insurance costs borne by the accounting officers or administrators of advance funds in order to protect themselves against the risks involved in their duties.

4. A special indemnity shall be granted to accounting officers and administrators of advance funds.

The sums corresponding to this indemnity shall be credited each month to an account opened by the Commission on behalf of each of these officials in order to establish a guarantee fund to cover any cash or bank shortage for which the person concerned might render himself liable, in so far as such a shortage has not been covered by refunds from insurance companies.

The credit balance in these guarantee accounts shall be paid over to the persons concerned after they terminate their appointment as accounting officer or administrator of advance funds and after they have been given final discharge for their financial administration.

#### *Article 38*

The liability of authorizing officers, financial controllers, accounting officers and administrators of advance funds to payment of compensation and disciplinary action may be determined in accordance with Articles 22 and 86 to 89 of the Staff Regulations of officials of the European Communities.

#### *Article 39*

The Commission shall be allowed a period of two years from the date on which the account for revenue and expenditure is submitted to take a decision on the final discharge to be given to accounting officers for the transactions relating thereto.

## SECTION V ACCOUNTS

#### *Article 40*

1. The accounts shall be kept, expressed in EUA, by the double entry method and on the basis of the calendar year. They shall show all revenue and expenditure between 1 January and 31 December of each year and shall include the supporting documents.

2. The revenue and expenditure account and the balance sheet shall be drawn up in EUA.

#### *Article 41*

1. Entries shall be made on the basis of an accounting system comprising a nomenclature of budgetary items which makes a clear distinction between the accounts which permit the balance sheet to be drawn up and those which permit the revenue and expenditure account to be drawn up. These entries shall be recorded in books or on cards, which must make it possible to draw up a general monthly balance.

2. The accounting system shall be set out in a Commission Decision.

## SECTION VI GENERAL PROVISIONS

#### *Article 42*

The Audit Board shall be notified of the appointment of the authorizing officer, the financial controller, the accounting officer and of the administrator of advance funds, of any delegation of powers pursuant to Articles 9 and 12 and of the accounting system referred to in Article 41.

## TITLE III IMPLEMENTING MEASURES

### SECTION I EXECUTION OF EDF OPERATIONS

#### *Article 43*

The Commission shall, in respect of those resources of the EDF which it administers, inform the Council

each year of the results of invitations to tender for the preceding year. Where appropriate it shall notify the Council of any measures it has taken or proposes to take to improve the terms of competition for participation in invitations to tender issued by the EDF.

In its report, the Commission shall provide the Council with information enabling it to assess

whether the measures taken by the Commission have actually afforded all firms of the various Member States, of the ACP States and of the associated countries and territories equal opportunity of access to works and supply contracts financed by the EDF.

#### *Article 44*

Under Article 19 of Protocol 2 and the corresponding provisions of Decision 76/568/EEC, a favourable opinion from the EDF Committee shall be required for the award of contracts by direct agreement or after restricted invitations to tender and for the performance thereof through public works departments.

However, where they are justified by urgency and by unforeseen circumstances, the above exceptions to the rules governing competition may be authorized by the Commission without a prior opinion from the EDF Committee. In that event, the Commission shall immediately inform the EDF Committee thereof.

#### *Article 45*

1. Tenders for supply contracts financed by the EDF shall be drawn up and payments made, at the option of the tenderer, in EUA, in the currency of the recipient State, country or territory, in the currency of the country of his registered place of business or in that of the country producing the supplies.

2. Tenders for works contracts and for technical assistance contracts and contracts for the supervision of works financed by the EDF shall be drawn up and payments made in the currency of the recipient State, country or territory. However, the tenderer may request in his tender that a justified part of the nominal amount of his tender be paid in the currency of the country of his registered place of business on the basis of the conversion rate in force on the first day of the month preceding the month in which the date set for the opening of tenders falls. He may also draw up that part in EUA on the basis of the conversion rate stipulated above.

3. Tenders for study contracts financed by the EDF shall be drawn up and payments made at the option of the contractor either in EUA or in the currency of the country in which the contractor has his registered place of business.

However, that part of the services provided which corresponds to expenditure in the currency of the recipient State, country or territory shall be paid in that currency. Where the sums to be paid in the

various currencies are defined by reference to another currency the conversion shall be effected on the basis of the rate specified in the contract.

4. Where tenders are drawn up in EUA, payments connected with the debt shall, as appropriate, be made in the currency of a Member State or in the currency of a recipient State, country or territory specified in the contract on the basis of the equivalent value of the EUA on the day preceding payment.

5. Where payment is made in a currency other than the currency of the recipient State, country or territory or other than the currency of the country where the contractor has his registered place of business, it must be through the intermediary of an approved bank or agency, established in the country where the contractor has his registered place of business.

## SECTION II

### FINANCIAL COMMITMENTS

#### *Article 46*

Where the EDF's resources managed by the Commission are involved a financing agreement shall be drawn up and concluded in EUA between the Commission, acting for the Community, and the Government of the recipient State or the competent authority of the recipient country or territory for any project or programme on which a financing decision is taken.

The financing agreement shall specify the details of the EDF's financial commitment, the arrangements for and terms of the financing, and the persons or institutions responsible for supervision, payments and recoveries.

#### *Article 47*

No expenditure in excess of the amount laid down in the financing agreement may be charged to the EDF unless a decision has been taken to commit additional funds thereto under the conditions laid down in Articles 16 to 19 and in Article 56.

The request for the commitment of additional funds shall be addressed to the Commission and examined under the conditions laid down in Article 33 of Protocol 2.

#### *Article 48*

The transfer agreement referred to in Article 22 of the Convention and in the corresponding provisions of Decision 76/568/EEC shall state the data on which calculation of the annual transfer in EUA is based, the currencies in which the transfer of this amount is to be made and, where appropriate, the conditions for the reconstitution of the resources made available to the stabilization system referred to in Title II of the Convention.

### SECTION III

#### SPECIAL LOANS

#### *Article 49*

1. A decision to grant special loans shall set the limit to the Community's commitment. Contracts relating to such loans, drawn up jointly with the Bank for the parts which concern the latter, shall be concluded by the Commission on behalf of the Community.

2. The amounts of the appropriations corresponding to each loan granted shall be expressed in EUA. If an appropriation is cancelled before all or part of the payments relating thereto have been made the unpaid part shall be regarded as not having been granted.

3. Loans shall be paid in the currency or currencies of the Member States as fixed by the Commission after consultation with the borrower. By way of derogation from Article 34, the sums paid shall be charged against the appropriations on the basis of the conversion rates in force, on the day preceding that of payment, between the EUA and the currency or currencies used for the payment.

4. Reimbursements and interest payments shall be credited to the Community's account with the Bank. The Bank shall recover such reimbursements and interest payments by virtue of special terms of reference conferred upon by the Commission, acting for the Community, after consulting the EDF Committee.

5. The amounts to be reimbursed and interest due in respect of special loans shall be expressed in EUA.

Reimbursements and interest payments shall be made in one or more of the currencies of the Member States, chosen by the borrower.

6. The rates for converting EUA into the currencies of the Member States for the purpose of paying sums due in the form of reimbursements, interest payments and any commission due shall be those in force on the 10th day preceding payment.

### SECTION IV

#### RISK CAPITAL

#### *Article 50*

1. Any decision to grant risk capital shall set a limit in EUA to the Community's commitment and financial responsibilities and to the extent of the rights in the company attaching to such operations.

The instruments giving effect to risk capital operations shall be concluded by the Bank acting as the Community's authorized agent.

2. The Bank, acting for and on behalf of the Community, shall manage the operations referred to in paragraph 1 which have been the subject of a financing decision by the Board of Directors of the Bank.

3. Following the signing of each contract, the Bank shall communicate to the Commission the estimated dates and amounts of the calls for funds. Whenever called upon by the Bank to do so, the Commission shall pay to it the amount it needs for carrying out risk capital operations in the currency or currencies fixed by the Bank.

4. Payments relating to receipts, income and repayments in respect of risk capital operations shall be made to the Bank for the Community.

#### *Article 51*

The quasi-capital aid referred to in Article 4 of Protocol 2 and in the corresponding provisions of Decision 76/568/EEC shall serve to finance:

- primarily, fixed investments in public, private or semi-public firms,
- secondarily, specific studies for the preparation of projects and assistance for firms during the starting-up period.



Where such aid is granted to a consultancy firm it shall normally, on execution of the project, be incorporated in the capital or quasi-capital assistance to which the promoting firm may also be entitled for the execution of the project.

## SECTION V

### SUBSIDIZED LOANS FROM THE BANK

#### *Article 52*

1. Pursuant to Article 5 of Protocol 2 and the corresponding provisions of Decision 76/568/EEC, the aggregate amount of interest rate subsidies on loans from the Bank shall be calculated in EUA in terms of its current value on the effective date of signing of the loan contract, on the basis of a compound interest rate fixed by the Council and the Bank in agreement with the Commission.

For periods of less than one month the calculation shall be made on the basis of simple interest.

2. The Bank shall make the calculation of current value referred to in paragraph 1 by reference to the following two schedules:

- (a) an estimated schedule for paying out and repaying the loan;
- (b) an estimated schedule for the amounts required to cover the interest rate subsidies when they fall due.

The Bank shall communicate to the Commission as soon as possible the schedules and the total amount of the interest rate subsidies at their current value on the date fixed for the signing of the loan contract.

Where the actual schedule for paying out the loan proves to differ appreciably from the estimated schedule, the amount of the subsidy on the interest paid to the Bank shall be recalculated.

Should the date fixed for the signing be changed the Bank shall revise the calculation of the current value and shall forthwith communicate to the Commission the total amount of the interest rate subsidies at their current value on the new date fixed for the signing together with the appropriate grounds therefor.

3. The up-dated total amount of the interest rate subsidy shall be paid to the Bank by the Commission on the date on which the loan contract is signed.

4. If all or part of an appropriation which has been opened is cancelled or all or part of a loan which has been made is repaid in advance the Bank shall pay back into the special account opened with the Bank in the name of the Community under Article 68 an amount corresponding to that part of the appropriation which has been cancelled or that part of the loan which has been repaid, plus the compound interest, up-dated at the same rate as that stipulated in paragraph 1, for the period between the date of payment of the up-dated total amount of the interest rate subsidies and the date of repayment. The latter date may not be more than 30 days after the complete or partial cancellation or advance repayment of the subsidized loan.

5. All payments provided for in this Article shall be expressed in EUA and movements of funds relating thereto shall be made in the currencies of the Member States on the basis of the composition of the EUA.

## SECTION VI

### MANAGEMENT OF THE EXPORT EARNINGS STABILIZATION SYSTEM

#### *Article 53*

1. For the calculation in EUA of the reference level and of the actual earnings referred to in Article 19 (1) and (2) respectively of the Convention and in the corresponding provisions of Decision 76/568/EEC, the exchange rates applicable shall be the average rates in force in the periods to which the amounts concerned refer.

2. For the purposes of payments relating to the transfers referred to in Article 19 (3) and (6) of the Convention and in the corresponding provisions of Decision 76/568/EEC, the conversion rates to be used between the EUA and the currency or currencies used for payment shall be those in force on the day preceding payment.

3. For the purposes of payments relating to the contributions towards the reconstitution of resources referred to in Article 21 (2) of the Convention and in the corresponding provisions of Decision 76/568/EEC, the conversion rates to be used between the EUA and the currency or currencies used for payment shall be those in force on the 10th day preceding payment.

Article 54

In the event of advance use of the following year's instalment, the advances referred to in Article 19 (6) of the Convention and in the corresponding provisions of Decision 76/568/EEC shall be reduced proportionately.

SECTION VII

EXECUTIVE AGENTS

Chapter I

The chief authorizing officer

Article 55

1. The chief authorizing officer of the EDF, referred to in Article 29 of Protocol 2, shall take all measures necessary for the implementation of the provisions of Chapter 8 of Protocol 2 and of the corresponding provisions of Decision 76/568/EEC.

2. The chief authorizing officer shall ensure, before the publication of an invitation to tender, that the documents relating to tenders do not contain any direct or indirect discriminatory provisions. He shall ensure that tenders are compared under equal conditions and in particular that the import duties or taxation of the recipient State, country or territory do not constitute an obstacle to participation in invitations to tender.

3. The chief authorizing officer may suspend the publication of a notice of invitation to tender where it is found that corrections must be made to the specifications or other replacement documents. To this end, he shall inform the relevant authorities of the recipient State, country or territory of his observations.

4. The chief authorizing officer shall ensure that when a contractor is designated and a contract is awarded Articles 18 and 20 of Protocol 2 are respected.

Where he deems it appropriate, the chief authorizing officer shall consult experts chosen for their technical competence and their independence *vis-à-vis* the firms concerned by the award of the contract.

Article 56

Under Article 33 (3) of Protocol 2 and the corresponding provisions of Decision 76/568/EEC

decisions to commit the additional funds required to cover any excess expenditure incurred under a project shall be taken:

- in accordance with the procedures laid down in Articles 19 and 20 of the Internal Agreement where the excess expenditure is higher than a ceiling of 15 % of the original commitment set out in the financing decision,
- by the chief authorizing officer of the EDF where the excess expenditure is equal to or lower than the 15 % ceiling.

Chapter II

The national authorizing officer

Article 57

In the performance of his duties, the national authorizing officer shall comply with the provisions of this Financial Regulation regarding commitment, clearance and authorization of expenditure.

Article 58

Where the chief authorizing officer of the EDF is aware of delays in the procedures relating to projects financed by the EDF he shall, in conjunction with the national authorizing officer, make all contacts necessary to remedy the situation.

If, for any reason whatsoever, services have been rendered but further delay in the clearance, authorization or payment entails difficulties likely to call into question the full performance of the contract, the chief authorizing officer may take all appropriate measures to resolve these difficulties, to remedy, where necessary, the financial consequences of the resultant situation and, more generally, to enable the project or projects to be completed under the best economic conditions. He shall inform the national authorizing officer of such measures as soon as possible. If payments are thus made directly by the Commission to the beneficiary of the contract the Community shall automatically acquire that beneficiary's rights as creditor *vis-à-vis* the national authorities.

Chapter III

The Commission delegate

Article 59

During the performance of operations, the delegate shall verify on the spot and on the basis of records, that work carried out or services rendered tally with their descriptions as given in the financing agreements, contracts or estimates.

Article 60

The delegate shall comply with this Financial Regulation in the performance of his duties.

Article 61

In the event of failure to comply with this Financial Regulation, of misconduct or gross negligence in the performance of his duties, the delegate shall be answerable to the Commission.

Chapter IV

The paying agent

Article 62

In the performance of his duties, the paying agent referred to in Article 32 of Protocol 2 shall comply with this Financial Regulation.

Article 63

In the event of failure to observe the provisions in force of misconduct or of gross negligence which entail financial loss for the Community, the paying agent shall be held financially responsible under the conditions and in accordance with the terms laid down in the contract binding him to the Commission.

SECTION VIII

PRESENTING AND AUDITING ACCOUNTS

Article 64

1. The balance sheet and revenue and expenditure account, expressed in EUA, shall be adopted by the

Commission at the close of each financial year. Without prejudice to Article 31 (4) of the Internal Agreement, they shall be submitted no later than 31 March of the following financial year together with documentary evidence, for examination by the Audit Board.

2. The powers conferred upon the Audit Board shall be exercised by its members, who shall take collective action and assume collective responsibility.

The Audit Board may instruct one or more of its members to carry out certain tasks or certain audits. Any member or members so instructed may on his or their initiative seek assistance from officers of the board.

The tasks delegated to such officers must be specifically laid down and limited to the time necessary for their completion. The board itself or one of its members shall notify these tasks to the authorities with whom the relevant officers are to carry out their work.

Article 65

1. The audit carried out by the Audit Board shall be based on records and, if necessary, performed on the spot. It shall be concerned with operations and projects financed from EDF resources managed by the Commission and its purpose shall be to establish that all revenue has been received and all expenditure incurred in a lawful and regular manner with regard to the provisions applicable, and that the financial management has been sound.

2. In the performance of its task the Audit Board may, under the conditions laid down in paragraph 4, consult all documents and information relating to the financial management of the departments subject to its inspection; it has the power to hear any official responsible for revenue and expenditure operations and to use any of the auditing procedures appropriate to those departments.

3. The Audit Board shall ensure that all securities and cash on deposit or in hand are checked against vouchers signed by the depositaries or against official memoranda of cash and securities held. The board may itself carry out such checks.

4. The Commission shall provide the Audit Board with all the facilities and information which the latter deems necessary for the performance of its task.

In particular, it shall place at the disposal of the Audit Board all documents concerning the conclusion of contracts and all accounts in cash or materials, all accounting records or supporting documents and the administrative documents pertaining thereto, as well as all documents relating to revenue and expenditure.

To this end, officials subject to audit by the Audit Board shall in particular:

- (a) make available for inspection their cash in hand, any other cash, securities and all types of assets, the supporting documents in respect of their management of the funds of which they are the depositaries and any books, registers and other documents relating thereto;
- (b) present the correspondence or any other document required for the full implementation of the audits.

The information referred to under (b) may be requested only by the Audit Board or by one of its members, and such request shall be in writing.

The Audit Board shall be empowered to audit the documents in respect of EDF revenue and expenditure which are held by the Commission's departments and, in particular, by the department responsible for decisions on such revenue and expenditure.

#### Article 66

1. Any comments which the Audit Board considers should appear in the annual report provided for in Article 206 of the Treaty shall be communicated to the Commission.

The Commission shall forward its replies to the Audit Board. The Audit Board shall attach to its report an assessment of the soundness of the financial management.

2. The Audit Board shall conclude its report on the accounts for the preceding financial year not later than 15 July.

The revenue and expenditure account, the balance sheet and the report of the Audit Board, together with the replies to the comments, shall be submitted by the Commission to the European Parliament and the Council not later than 31 October.

3. The European Parliament and the Council may request the Audit Board to forward, in addition to the annual report, reports or analyses in respect of specific problems relating to operations which have been closed.

The Audit Board may, on its own initiative, place similar reports or analyses before the European Parliament or the Council.

#### Article 67

1. Before 30 April of the following year the Commission shall be given a discharge in respect of the financial management of the EDF for the past year, in accordance with Article 31 (3) of the Internal Agreement.

2. The Commission shall take all appropriate steps to act on the comments appearing in the decision giving discharge. At the request of the European Parliament or the Council it shall report on the measures taken in the light of these comments and in particular on the instructions given to those of its departments which are responsible for the management of the EDF. This report shall also be forwarded to the Audit Board.

Subject to the second sentence of the preceding paragraph the Commission must, in an Annex to the revenue and expenditure account for the next financial year, give an account of the measures taken further to the comments appearing in the decision giving discharge.

3. The revenue and expenditure account and balance sheet for each financial year and the decision giving the discharge shall be published in the *Official Journal of the European Communities*.

#### SECTION IX

#### GENERAL AND FINAL PROVISIONS

#### Article 68

The sums collected by the Bank either in the form of repayments, interest or charges in respect of special loans or in the form of products, revenue or repayments from risk capital operations shall be centralized in a special account opened with the Bank on behalf of the Community.

Repayments in respect of interest rate subsidies received shall also be centralized in this account.

#### Article 69

This Regulation shall be applicable for the same period as the Internal Agreement.

Done at Brussels, 27 July 1976.

For the Council

The President

M. van der STOEL

ACP - EEC COUNCIL OF MINISTERS  
BRUSSELS