

Information

DEVELOPMENT-COOPERATION

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LOMÉ III

ANALYSIS OF THE EEC-ACP CONVENTION

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25 years of co-operation

The signature on 8 December of the third Lomé Convention was the culmination of nearly a quarter of a century of co-operation between the European Community and the African, Caribbean and Pacific countries (known as the "ACP" countries). Co-operation began in 1958, when the six members of the European Community unilaterally granted financial aid to the overseas countries and territories placed under their jurisdiction. This was also when the first European Development Fund (EDF) came into being.

Five years later the first Yaoundé Convention was negotiated between the EEC States and 18 newly independent, mainly French-speaking African countries. As early as 1963 the outline of the future Lomé policy was already apparent in an agreement freely negotiated, extending over the medium term (five years), concluded "collectively" with a group of partner countries and dealing with trade and both financial and technical aid. Joint institutions were also set up at both ministerial and parliamentary level.

A second Yaoundé Convention was to run from 1969 to 1975.

However, very early on the six-member European Community was concerned not to restrict its co-operation to the French-speaking African countries but to widen its scope to embrace all other developing countries in Africa. The initiatives taken at that time received varying responses. The Arusha Agreement, which entered into force in 1971, was the most concrete result of the overtures made. It was largely a trade-based agreement and linked three English-speaking East African countries - Kenya, Tanzania and Uganda - to the EEC.

The early seventies were to see the pace of co-operation between the EEC and the developing countries quicken. There were a number of reasons for this. Firstly, there was the enlargement of the Community from six to nine members, the United Kingdom bringing in its wake a large number of developing countries which were members of the Commonwealth. Also in 1972, the desire was expressed by the EEC Heads of State and Government to institute a "comprehensive world-wide development co-operation policy", without abandoning the policy of

regional association. Lastly, the raw materials crisis and the definition of a new world economic order within the United Nations were to encourage Europe to take more ambitious co-operation initiatives.

This desire to open up the EEC's horizons was expressed in a striking practical manner with the negotiation in 1973 and the signature on 28 February 1975 of the first Lomé Convention. For the first time ever forty-six French- and English-speaking ACP countries came together side by side to engage in a collective undertaking, to deal together with an external partner. The Convention, which ran for five years, was renewed in 1979 for a further period of five years. The new Lomé Convention, the third of that name, will also apply for an identical period - from 1 March 1985 to 28 February 1990 (reference may be made to Annex 1, which provides a summary of the EEC's development co-operation from its inception).

The conclusion of the first Lomé Convention was in itself a success. It was greeted with enthusiasm because of its unprecedented nature and the hopes aroused by the principles and mechanisms which it contained.

The second Convention, the negotiation of which was begun eighteen months after the entry into force of Lomé I, was essentially an exercise in consolidation. There was, however, one significant innovation, namely Sysmin, which covered minerals, and thus complemented Stabex.

When the negotiations for Lomé III began, enough time had passed for the partners to be in a position to assess their co-operation to date. The verdict, as for international co-operation in general, was disappointing. Admittedly, no cause - and - effect relationship could be established between the Lomé policy and the lack of economic progress (and even the deterioration in the economic situation) in many ACP countries: Community aid accounted for only a modest share (10%) of external contributions and many other factors were also to be taken into account. However, the fact remained that achievements did not live up to expectations: too often the projects and schemes financed, because they were insufficiently integrated into a clearly defined sectoral policy, proved to be ineffective or ill-adapted.

At the risk of compromising the very idea of co-operation, the Community had to react. Mr. Edgard Pisani, the European Commissioner responsible for the Lomé III negotiations, spelt out his ideas from the outset: they were

summarized in a memorandum published in 1982. The key words were dialogue, strategies, rural development, long term, with a recurring concern for effectiveness.

The Pisani memorandum did not fail to attract a reaction. The EEC Member States largely approved the broad lines of the Pisani plan. But also, and more importantly, the ACP partners were now aware of the need to take part in a joint effort to achieve more effective co-operation.

New features of Lomé III

Some regard the new Convention as merely a patched-up version of the old. For others, although the principal instruments remain identical, the spirit of the Convention has been totally renewed and should lead to different results - provided that the parties concerned make an effort to innovate.

There has been a change of style but also more concrete changes: a clearer formulation, new areas of co-operation and new principles.

i. The new layout of the document

There are 294 articles instead of 191 in Lomé II, but this does not mean that the new convention is simply wordier. The text is longer because it has been given a clearer, more logical, more explicit structure, which reinforces what the Convention represents politically for both sides. The 25 articles of Part One convey the spirit of Lomé III, its objectives and principles. Before coming to the "tool chest" contained in Part Three of the Convention, Part Two gives a detailed catalogue of the areas in which ACP-EEC co-operation is to operate (Articles 26 to 128).

In those areas there is little new. Nearly all were already mentioned in Lomé II. There is, however, a new way of approaching them - and this is particularly true for co-operation in the agricultural and rural sector - and increased importance is attached to certain areas such as fisheries. Furthermore, account is taken systematically of the cultural, social and human dimension for all projects which are to be financed.

ii. Agricultural and rural development - the cornerstone of Lomé III (articles 26 to 49)

For the Community, the real test of Lomé's success from now on will be what happens in the countryside. A constant concern of Commissioner Pisani, agricultural and rural development must have top priority. This concern is now largely shared by the ACP themselves, who in recent years have found themselves becoming increasingly dependent on food imports, whereas a few years ago a number of them were self-sufficient. A new source of concern is the alarming advance of the deserts, which calls for action beyond the scope of individual states. So in the field of agricultural and rural development the Convention will concentrate on:

- (a) Satisfying essential food requirements (self-sufficiency is no longer spoken of, as that objective is now inaccessible in the medium term);
- (b) Controlling drought and desertification, a theme introduced at the request of a number of ACP States from the Sahel with the aim of mobilizing the efforts of all concerned by these twin phenomena. This chapter covers one of the campaigns with a specific theme, which presuppose a very long-term commitment involving a number of ACP States. These "campaigns with specific themes" are, as it were, upstream of any agricultural projects since they are concerned with natural factors, such as water, soil, climate - factors which are fundamental to any agricultural production.

With regard to rural development, Lomé III stresses the vital importance of the socio-economic factor. All the schemes carried out under earlier Conventions which succeeded in increasing production were almost always based on a favourable socio-economic environment: remunerative prices for the producer, the existence of a market, storage facilities, etc. Lomé III is very much concerned with this aspect of things. That is why the Community wants the projects it will finance to be integrated into well-defined food strategies, which help to create this favourable environment. That is also why it prefers to concentrate its efforts on well-defined sectors, so as to obtain maximum effectiveness, which, as experience has amply demonstrated, is not possible if aid is spread too thinly.

Another idea which runs through the Convention is the desire to introduce environmental protection, the aim being that everything financed by the

EEC should have no adverse effects upon the environment.

The Convention is clearly geared to satisfying the immediate food requirements of the ACP. However, the fact that most ACP States have an export-oriented agricultural sector justified a chapter being devoted to this aspect of their economies, an aspect which will not be neglected by EEC-ACP co-operation. In particular, an "Agricultural Commodities Committee" has been set up to monitor the development of this sector.

iii. Increased importance for the development of fisheries (Articles 50 to 59)

Lomé III pays much attention to fisheries, regarded as an essential source of food for the developing countries. A whole title is devoted to this subject and deals with two aspects of co-operation, which are different but complementary.

Firstly, the need to encourage the development and exploitation of the ACP's fishery resources is stressed, the declared objectives being to:

- encourage the rational exploitation of such resources where the EEC and the ACP have a common interest in so doing;
- increase the contribution of fisheries to rural development as a source of food and better living standards;
- make available to the processing industries more plentiful and more regular supplies.

Fisheries co-operation has been situated in the context of the new law of the sea and the developing countries' new responsibilities for managing their 200-mile exclusive zones.

The second aspect concerns the fishery agreements concluded between the ACP countries, which do not yet have the means to exploit their resources fully, and the Community, which is seeking new fishing grounds. These agreements provide for various forms of financial or technical compensation and some of them are aimed at increasing the ACP's ability to profit from their fishery resources. At the beginning of 1985 seven fishery agreements had already been concluded between Brussels and ACP countries.

iv. Attracting private investment

Until recently the ACP countries generally considered that public investment should be the preferred driving force behind their development. Various factors - mainly to do with the effects of the world recession on their financial situation - caused them to modify this point of view. So much so that the Convention now gives particular attention to private investment (see Chapter V of this document and Articles 240 to 247 of the Convention).

v. Aid for refugees (Articles 204 and 205)

A new 80 million ECU fund has been set up to help ACP countries to integrate refugees into their own societies or to enable the reintegration of refugees returning to their countries of origin. Such action, which is of a long-term nature, could not be considered under the heading of emergency aid. A gap has thus been filled.

vi. Social and cultural co-operation

Although the earlier Conventions did not rule out this aspect of co-operation, the desire to make development aid more effective has made it necessary to take systematic account of the cultural and social dimension. That is the aim of three chapters of the Convention (Articles 114 to 128).

Past experience has shown that projects financed by the Community did not always take this aspect into consideration and that they introduced, for instance, technologies or methods which were completely unsuited to the people at which they were aimed.

The Convention mentions two aspects that must be studied when any type of programme is drawn up:

- (a) the cultural and social dimension. This involves knowing exactly who programmes are aimed at and what their impact will be on both the people concerned and the environment;
- (b) enhancing the value of human resources, of which the most familiar aspect is training.

The title devoted to social and cultural co-operation contains a short chapter on the "promotion of cultural identities". This is a very specific aspect of co-operation, which consists of helping the ACP to develop their cultural productions (financing projects to co-produce films or radio and television programmes, for instance) or to preserve or develop their artistic heritage.

vii. A reference to human rights

For the first time the Convention refers, in its preamble, to human rights. A further reference is made in a declaration annexed to the Final Act, a declaration which also contains a condemnation of apartheid.

Certain EEC Member States called for a reference to human rights in the Convention itself, in order to be able to block aid if these rights were not respected. The ACP would not accept this. They agreed to incorporate such a principle only if the idea was linked to that of human dignity: "... every individual has the right in his own country or in a host country, to respect for his dignity and protection by the law." The contracting parties stated that they were prepared to eliminate "... all forms of discrimination based on ethnic group, origin, race, nationality, colour, sex, language, religion or any other situation." Thus, within the ACP-EEC Council of Ministers matters such as the payment imposed by certain Member States on foreign students can in future be discussed.

Consolidation of existing areas of co-operation

The other traditional Lomé policies are of course present in the new Convention. Their objectives and the means of achieving them are amply elaborated upon in the second part of the Convention, which deals with areas of co-operation.

i. Industrial development, with rehabilitation as the keynote (Articles 60 to 74)

Industrial co-operation has been the subject of much dissatisfaction: projects which were on too large a scale or over-ambitious for the size

and resources of the ACP countries have often led to landscapes littered with "industrial corpses". The developing countries' attachment to industrialization has resulted, however, in this aspect of co-operation being maintained. In particular, the Centre for the Development of Industry remains in existence, even though there were calls from certain quarters of the EEC for it to be abolished.

Since the partners realized that this type of development is no longer necessarily the keystone of balanced development, the new Convention will be primarily concerned with rehabilitating existing industrial capacity.

ii. Development of mining and energy potential (Art. 75 to 83)

Mining and energy will be the subject of aid under the support for sectoral policies. More than in any other sector coherence must now be sought for measures taken in these fields.

iii. Transport and communications (Art. 84 to 94)

In this area too, the Convention partners have put their ideas in order: now an entire chapter is devoted to co-operation covering all modes of transport. Transport and communications are also the subject of aid granted under the support for sectoral policies.

iv. Development of trade and services (Art. 95 to 100)

In the past, efforts have been concentrated on finding buyers for ACP products. The new Convention broadens the scope of co-operation in this area to include all stages of trade development, from the starting point - a coherent trade policy - through product development and personnel training to the final stage, marketing.

More attention will be paid to developing domestic and regional markets (South-South trade), in addition to more distant international markets (regional funding possibilities have been increased by 50% to 60 million ECU).

There will be more help for ACP tourism, including the collection and analysis of tourist data (arrivals, lengths of stay, etc.), which are almost totally lacking at present.

On the services side, it will be possible under Lomé III to provide technical assistance in setting up export credit and insurance houses in ACP countries. The new Convention fully recognizes the importance of export credit, which, along with payment facilities (i.e. hard currency funds), is to be encouraged under the chapter on private investment.

v. Regional co-operation: still a priority for the EEC (Art. 101 to 113)

The encouragement of regional co-operation has always been one of the Community's priorities in its development aid. Here again the new Convention details the objectives, the measures and the broad outlines of EEC-ACP co-operation.

As well as having the distinction of being the world's leading trading power, the EEC is also characterized by the openness of its market to products from the developing countries. The arrangements it applies to these imports fall of course within the general framework of GATT, but are divided into two distinct categories:

- i. A generalized system of tariff preferences (GSP) which in terms of the extent of the concessions accorded is in the forefront of those applied by industrialized countries;*
- ii. A general system of zero duties for products imported from developing countries where such countries have concluded preferential agreements with the Community. This system applies to the southern Mediterranean and the ACP countries.*

There is, however, one significant exception: agricultural products covered by the EEC's common agricultural policy are subject to special import arrangements, whatever the country of origin.

The second feature of its trade arrangements in respect of the developing countries is the fact that the EEC has abolished all quantitative restrictions on imported products. Here too, however, there is an exception which restricts its suppliers' room for manoeuvre: textile products have for a number of years been subject to quota systems. It should be pointed out that these quotas are negotiated on a world scale under the GATT. These restrictions have had virtually no significant effect on sales of ACP textiles to the Community because of the ACP's low export capacity. They do, however, constitute a threat and a brake on any export-oriented textile project.

However liberal they are, all trade arrangements provide for safeguard clauses, which act as a buffer against excessive imports that threaten to disrupt import markets. The Lomé Convention is no exception to this rule.

Lastly, any preferential import arrangements in favour of a particular trading partner only apply to goods actually produced by that partner country. This leads to the establishment of rules of origin. Although these

were relatively favourable under Lomé II, they have been significantly relaxed in the new Convention.

Improvements compared with the earlier arrangements

Improving the most favourable trade arrangements in the world was no easy matter (more than 99% of imports originating from the ACP enter duty free!). Nevertheless, from Convention to Convention the last obstacles to ACP exports to the Community are being removed little by little.

Improved access for agricultural products: the new text facilitates the procedures for dealing with ACP requests for preferential access for their agricultural products. In particular, Lomé III states that the Community must reply within 6 months. In addition, when considering ACP requests for more favourable tariff treatment, the Community will take account of concessions granted, for the same product, to other developing countries and the scope offered by the off-season market.

No more safeguards without prior consultation: there are many ways of restricting the scope of preferential agreements. Unilateral, improper application of a safeguard clause is a formidable weapon. Lomé III has introduced a prior consultation clause (Art. 140), both when safeguard measures are first adopted and when they are extended.

General arrangements: one-way concessions

The ACP are not required to grant reciprocal tariff concessions for EEC products (Art. 136). That would be tantamount to pitching the iron pot against the earthenware pot. Moreover, customs receipts make up the bulk of the developing countries' budget revenue and for them there can be no question of forgoing such revenue.

The arrangements set up by the Lomé Convention therefore work one way. The ACP are only obliged to avoid discriminating between the EEC countries and to apply to them import arrangements which are at least as favourable as those applied to other countries (except ACP or other developing countries).

Article 129 defines the object of trade co-operation, namely "..... to promote trade between the ACP States and the Community, taking account of their respective levels of development, and also between the ACP States themselves."

Exemption from customs duties. "Products originating in the ACP States shall be imported into the Community free of customs duties and charges having equivalent effect." (Art. 130 (1)).

Special arrangements for agricultural products

Special arrangements are, however, established for this category of product:

- for agricultural products to which only the normal customs duty arrangements apply on importation, these duties have been done away with in the case of the ACP;
- for other agricultural products generally subject to a minimum price on entering the EEC, the concessions are set out in a joint declaration annexed to the Final Act (Annex XIII, reproduced here in Annex 2).

These concessions consist of reductions in or exemptions from customs duties and sometimes cuts in the levies, which are tantamount to subsidies to the ACP (see box for details of these mechanisms).

The Community has also extended for five years its guarantee to import 30 000 tonnes of beef and veal annually from Botswana, Kenya, Madagascar and Swaziland, plus 8 100 tonnes from Zimbabwe, a newcomer to the Convention. These imports are duty free, as 90% of the levies on them are collected by the beneficiary countries in the form of an export tax.

The details of the quotas are as follows:

Botswana	:	18 916 t	} 30 000 t
Kenya	:	142 t	
Madagascar	:	7 579 t	
Swaziland	:	3 363 t	
Zimbabwe	:	8 100 t	

TRADE CONCESSIONS GRANTED TO THE ACP COUNTRIES

In the case of ACP industrial products, which enter the EEC free of all customs duties, the abolition of customs duties is an obvious commercial advantage. This assessment should, however, be qualified: through its generalized system of preferences (GSP) the Community also waives customs duties in respect of other developing countries, subject to certain ceilings or quotas; in any one year, for as long as these ceilings are not reached, ACP products are often on the same tariff footing as those of other developing countries. This is why the ACP States deplore an erosion of the tariff advantages granted to them under the Convention.

The situation is different for products listed in Annex II to the EEC Treaty (agricultural and fishery products) or for processed products obtained from them.

Here mention should be made briefly of the provisions adopted under the common organization of the markets to guarantee Community producers preferential outlets for their products.

In some cases customs duties are felt to be adequate, but to prevent very cheap imports from disrupting the EEC market, provision has been made for specific measures which apply only in certain cases (e.g., reference prices). In other cases levies are charged in addition to customs duties and, lastly, in the case of products such as cereals, only levies are charged, which make up the difference between Community prices and the prices of imported products (the variable component) and which guarantee Community producers preferential treatment (the fixed component).

In the case of "agricultural" products originating in the ACP States and subject to common organization of the market in the EEC, each product was examined individually according to its importance for the ACP States; the list was adopted jointly, the preferential measures are contained in an annex to the Convention, and the Community has applied them by means of an EEC regulation.

This regulation provides either for total exemption from customs duties or for a reduction of customs duties, together with, in some cases, seasonal

restrictions and/or quotas for products of interest to the ACP States which are liable to a customs duty under the CAP. Thus the products in question have a definite advantage over those from other countries, and, when they enjoy complete exemption, compete fully with Member States' products, provided that their import price is as high as the reference price if they are products to which a reference price would be applied.

As for levies, the variable component is reduced to a greater or lesser extent and the ACP States are exempt from the fixed component which represents the Community preference. In some cases the Community has asked the exporting ACP countries to apply upon exportation a tax equivalent to the amount of the levy in respect of which exemption has been granted. These advantages are significantly greater than those offered under the terms of the GSP.

EXAMPLE OF CUSTOMS ARRANGEMENTS APPLIED BY THE EEC
TO DIFFERENT CATEGORIES OF COUNTRIES

<u>PRODUCTS</u>	<u>THIRD COUNTRIES (GATT)</u>	<u>DEVELOPING COUNTRIES (GSP)</u>	<u>ACP COUNTRIES (LOME)</u>
Tinned pineapples	24% + possible additional duty on sugar	19% (quota) + possible additional duty on sugar	0%
Tinned tuna	24%	24%	0%
Crude groundnut oil	10%	10%	0%
Tobacco (Virginia)	23%	6% (quota)	0%
(other)	14%	14%	0%
Plywood	10.4%	0% (quota or ceiling)	0%
Rubber footwear	20%	0% (quota or ceiling)	0%

Article 130 gives details of the new provisions mentioned earlier:

- i. possibility for the ACP States to request preferential access for their agricultural products: duly substantiated reply from the Community obligatory within not more than six months of the date of submission of the request;
- ii. the possibilities offered by the off-season market will be taken into account.

The same Article stipulates that if an agricultural product is subject in the EEC to new rules because of the common agricultural policy or that the rules in question are amended, consultations will take place with the ACP in order to find the most favourable arrangement possible.

The principle: no quantitative restrictions on imports of ACP products

"The Community shall not apply to imports of products originating in the ACP States any quantitative restrictions or measures having equivalent effect." (Art. 131) However, supposing that an ACP State has an export-oriented textile industry, it is probable that the Community would be obliged to ask that State to exercise voluntary restraint on its exports to the Community market of certain highly sensitive products. These arrangements, which have been applied to Tunisia and Morocco - countries which have concluded preferential agreements with the EEC excluding, however, any quantitative restriction on industrial products - has been made necessary as a result of the crisis affecting the Community textile industry. This crisis has led to the loss of a considerable number of jobs in the EEC.

Furthermore, in 1980 an ACP country (Mauritius) was obliged to moderate its exports of shetland pullovers to the United Kingdom market, which might have been disrupted by such exports.

Another restriction to freedom of trade is referred to in Article 132: where public morality, public security or public policy are at stake or it is justified on health, veterinary or plant health grounds or reasons connected with the artistic heritage of the country in question, the Community may apply restrictions on imports. These exceptions must not, however, constitute disguised trade restrictions.

Consultations in the event of trade barriers: Under Articles 134 and 135, ACP States which consider that there are barriers to the entry of their products to the Community market may request consultations in order to find satisfactory solutions.

Safeguard clause (Art. 139 to 142)

The safeguard measures insofar as international trade is concerned are laid down under the GATT. Such measures may be implemented only in well-defined instances as set out in Art. 139 of the Convention, namely:

- i. serious disturbances in a sector of the economy of the EEC or of a Member State;
- ii. where the external financial stability of the EEC or its Member States is jeopardized;
- iii. where difficulties arise which may result in the deterioration of a sector of the economy of the EEC or of a region of the Community.

The Community nevertheless undertakes not to take such measures for protectionist purposes.

The safeguard facility has never been used in respect of the ACP. It was, however, nearly used in 1979, when imports of pullovers from Mauritius suddenly flooded on to the United Kingdom market. But the Mauritian authorities agreed to impose temporarily voluntary restraints on their exports to that country, which avoided creating an unfortunate precedent.

The new Convention now obliges the Community to enter into prior consultations before adopting (or extending) a safeguard decision. However, Article 140 states that "... prior consultations ... shall not prevent any immediate decisions which the Community or its Member States ... might take where special factors have necessitated such decisions."

The ACP and EEC have agreed that sensitive products may be the subject of statistical surveillance, which means that the ACP States would have to transmit regularly their export statistics. The data collected in this way will make it possible to provide information for the consultations for which provision is made.

Rules of origin

In order to prevent products which have not been obtained in an ACP country or which have not undergone sufficient processing from being able to enter the EEC under the preferential arrangements, the Convention lays down rules of origin. Lomé III incorporates the provisions of the preceding Convention, although with significant improvements which make it easier to apply the rules.

Protocol No 1 to the Convention lays down the rules of origin and methods of administrative co-operation. For the purposes of applying the rules of origin, the ACP States, the Community and the overseas countries and territories are regarded as a single customs territory.

Conditions determining the originating status of a product

Article 1: "... The following products shall be considered as products originating in an ACP State ...:

- (a) products wholly obtained in one or more ACP States;
- (b) products obtained in one or more ACP States in the manufacture of which products other than those referred to in (a) are used, provided that the said products have undergone sufficient working or processing..."

Article 2 lists the categories of products regarded as wholly obtained in the ACP or the EEC. This list does not call for any particular comment. However, originating status is conferred on products not wholly obtained in the ACP or the EEC provided that certain conditions are met.

Products not wholly obtained in the ACP or the EEC

Such products are not regarded as originating products unless the other products imported from third countries used in their manufacture have been the subject in the ACP countries of sufficient processing (conditions laid down in Article 3).

The general rule is that if the product obtained after processing in the ACP changes tariff heading in the Customs Co-operation Council Nomenclature (CCCN) compared with the non-originating products which have been used, the product is then regarded as originating in the ACP. However, a List A annexed to

the Protocol lists products which, in addition to changing tariff heading, must fulfil other conditions to be regarded as originating products. On the other hand, a List B lists processing operations which, although not causing any change in the CCCN, do, however, constitute sufficient processing to confer on the products obtained the status of originating products.

A new provision of Lomé III relaxes the preceding rules: "... the incorporation of non-originating materials and parts in a given product obtained shall only make such products lose their originating status if the value of the said materials and parts incorporated exceeds 5% of the value of the finished product." (Article 3 (2)).

Certain processing operations are still regarded as insufficient (Article 3 (4)). Examples are simple changes of packaging, mixing, classification, slaughter of animals, etc.

Article 5 of Protocol No 1 lays down certain conditions relating to the transport of goods so that they do not undergo processing in third countries of transit, which might cause them to lose their originating status.

Methods of administrative co-operation are laid down, providing in particular for the use of special forms. A Customs Co-operation Committee is responsible for ensuring that the origin rules are properly applied. It consists of experts from the ACP, the EEC Member States and the European Commission.

In addition to the 5% rule referred to above, the new Convention makes other improvements to the earlier arrangements:

- i. In Annex XXX to the Final Act a Joint Declaration on the origin of fishery products states that the arrangements must be examined after consultations and that derogations may be granted where certain conditions are met, account being taken of ACP concern in respect of fishery agreements concluded with third countries which are not members of the EEC, as some of these agreements oblige the countries in question to land part of their catches in the ACP in order to supply the export-oriented processing industries.
- ii. Lomé III improves the system of derogations by granting longer periods and by introducing the value added criterion. Furthermore, the deroga-

tions procedure stipulates that originating status may be granted to products in which are incorporated products imported by the ACP States from their immediate neighbours, provided that those countries are developing countries, least developed countries or countries with which they have traditional relations.

- iii. For a number of products Lomé III abolishes the binding rule that 50% of the value of the products used in the manufacture of an article must be originating.
- iv. Under Lomé III the percentage of non-originating products not changing tariff heading is increased from 5% to 10% in the case of certain industrial products (List B).

Special Protocols on bananas and rum

Annexed to the Convention are two Protocols (Nos 4 and 5) dealing with exports of bananas and rum from the ACP States to the Community.

Protocol No 4 on bananas

Provisions:

- i. Maintenance of access to the markets and the advantages acquired by each ACP State which exports bananas to the EEC.
- ii. Joint effort by the EEC and the ACP to enable the ACP States (particularly Somalia) to increase their exports of bananas to traditional Community markets by means of investment at all stages (from production to consumption).
- iii. Joint effort by the ACP and the EEC to enable the ACP States to establish themselves on new markets in the Community.

Operation:

For the purpose of attaining these objectives, there is a permanent joint group, assisted by a group of experts, whose task is to keep under continuous review any specific problems arising from application of this Protocol and to propose solutions.

Support for a producers' organization:

Should the banana-producing ACP States decide to set up a joint organization for the purpose of attaining the objectives referred to above, the Community would support such an organization, in particular by means of financing under the heading of regional co-operation.

Protocol No 5 on rum

Until the entry into force of a common organization of the market in spirits in the EEC, rum, arrack and tafia (CCT tariff subheading 22.09 CI) originating in the ACP States will be imported duty free into the Community subject to an annual quota laid down by the Community.

Method of calculating the quota

The annual quota is fixed on the basis of the largest quantities imported from the ACP States into the Community in the last three years, increased by an annual growth rate of 37% on the market of the United Kingdom and of 27% for other markets.

However, the volume of the annual quantity will in no case be less than 170 000 hectolitres of pure alcohol.

A joint working party has been set up to monitor the application of the Protocol.

If rum consumption increases significantly in the Member States, the Community will review the annual percentage increase.

The first Lomé Convention was negotiated in 1974. And it was in April 1974 that the "new world economic order" was declared against a background of confrontation between the developing and industrialized countries. The central issue of the debates was commodities.

In those circumstances, the EEC-ACP Convention had a symbolic value in addition to its operational virtues. And the creation of STABEX, intended to compensate for the fall in export earnings on agricultural commodities, appeared as a challenge.

With the introduction of SYSMIN in the second Convention, the ACP and the Community again stressed the importance they attached to raw materials.

They are indeed of vital importance, as many ACP countries remain highly dependent on the export of a single commodity: coffee accounts for nearly 90% of Burundi's exports, cocoa for 70% of Ghana's exports, sugar for more than 65% of Mauritius's exports, copper for 70% of Zambia's exports, etc.

Over the ten years in which Lomé I and II were in force, STABEX proved its worth, but also its limitations. It remains a regional instrument, which cannot resolve the world problem of stabilizing earnings derived from commodities. It remains, however, a precious tool and a model of its kind.

The new Convention increases STABEX and SYSMIN funding while improving their operating mechanisms. It also maintains the arrangements for ACP sugar exports to the EEC.

AGRICULTURAL COMMODITIES

STABEX, an insurance scheme (Art. 147 to 174)

STABEX, the most original feature of ACP-EEC co-operation, now covers, with 48 products, nearly 85% of the agricultural commodities exported in significant quantities to the Community market by the ACP. Article 147 of the Convention defines the aim: "... to guarantee the stabilization of ... earnings ... derived from the ACP States' exports to the Community or other destinations ... (in certain cases) ... of products on which their economies are dependent and which are affected by fluctuations in price or quantity or both these factors."

In order to define the nature of STABEX, the image most frequently used is that of insurance in the traditional sense of the term. The payments made are aimed simply at injecting into the ACP economies financial flows which normally would have come from the market but which shortcomings in production or the economic climate, or both of those factors, have prevented.

The system went through a difficult patch in 1980 and 1981, when requests for transfers exceeded the financial capacity of STABEX, this being due in particular to a substantial fall in the prices of a large number of commodities.

Products covered (Art. 148)

There are now 48 products, as three new ones have been added, namely dried bananas, mangoes and shea nut oil. On the other hand, iron ore has been withdrawn from STABEX and now falls under the SYSMIN system. The details are as follows:

<u>Products covered</u>	<u>NIMEXE Code</u>
1. Groundnuts, shelled or not	12.01-31 to 12.01-35
2. Groundnut oil	15.07-74 and 15.07-87
3. Cocoa beans	18.01-00
4. Cocoa paste	18.03-10 to 18.03-30
5. Cocoa butter	18.04-00
6. Raw or roasted coffee	09.01-11 to 09.01-17
7. Extracts, essences or concentrates of coffee	21.02-11 to 21.02-15
8. Cotton, not carded or combed	55.01-10 to 55.01-90

(continued)

9. Cotton linters	55.02-10 to 55.02-90
10. Coconuts	08.01-71 to 08.01-75
11. Copra	12.01-42
12. Coconut oil	15.07-29, 15.07-77 and 15.07-92
13. Palm oil	15.07-19, 15.07-61 and 15.07-63
14. Palm nut and kernel oil	15.07-31, 15.07-78 and 15.07-93
15. Palm nuts and kernels	12.01-44
16. Raw hides and skins	41.01-11 to 41.01-95
17. Bovine cattle leather	41.02-05 to 41.02-98
18. Sheep and lamb skin leather	41.03-10 to 41.03-99
19. Goat and kid skin leather	41.04-10 to 41.04-99
20. Wood in the rough	44.03-20 to 44.03-99
21. Wood roughly squared or half-squared, but not further manufactured	44.04-20 to 44.05-79
22. Wood sawn lengthwise, but not further prepared	44.05-10 to 44.05-79
23. Fresh bananas	08.01-31
24. Tea	09.02-10 to 09.02-90
25. Raw sisal	57.04-10
26. Vanilla	09.05-00
27. Cloves - whole fruit, cloves and stems	09.07-00
28. Sheep's or lambs' wool, not carded or combed	53.01-10 to 53.01-40
29. Fine animal hair of Angora goats - mohair	53.02-95
30. Gum arabic	13.02-91
31. Pyrethrum - flowers, leaves, stems, peel and roots; saps and extracts from pyrethrum	12.07-10 to 13.03-15
32. Essential oils, not terpenes, of cloves of niaouli and of ylang-ylang	33.01-23
33. Sesame seed	12.01-68
34. Cashew nuts and kernels	08.01-77
35. Pepper	09.04-11 and 09.04-70
36. Shrimps and prawns	03.03-43
37. Squid	03.03-68
38. Cotton seeds	12.01-66
39. Oil - cake	23.04-01 to 23.04-99
40. Rubber	40.01-20 to 40.01-60
41. Peas	07.01-41 to 07.01-43 07.05-21 and 07.05-61

(continued)

42. Beans	07.01-45 to 07.01-47 07.05-25, 07.05-65 and 07.05-99
43. Lentils	07.05-30 and 07.05-70
44. Nutmeg and mace	09.08-13, 09.08-16 09.08-60 and 09.08-70
45. Shea nuts	12.01-70
46. Shea nut oil	ex 15.07-82 and ex 15.07-98
47. Mangoes	ex 08.01-99
48. Dried bananas	08.01-35II

This list may be extended at the request of an ACP State.

An appropriation of 925 million ECU for 5 years

While the amount available under Lomé II was only 550 million ECU, it has increased to 925 million ECU with the new Convention. This overall allocation is divided into five equal annual instalments, to which is added the balance from preceding years, repayments of earlier transfers and the interest earned by funds until such time as they are used.

Fall in export earnings: what terms of reference?

To establish that there has been a fall in export earnings certain terms of reference must be used. In the case of STABEX, two points are used for the calculations:

- i. a period of four years preceding the year of calculation enables the average export earnings to be established (3 years in certain cases) (Article 158);
- ii. the destination of the exports: under the new Convention, as with the earlier ones, it is generally exports to the European Community which are taken into account. However, derogations make it possible to consider exports to the ACP and in certain cases to any other countries (Article 150).

Dependence and fluctuation thresholds (Articles 161 and 162)

For a commodity to be considered eligible, in the preceding year it must have accounted for 6% (1.5% for the least developed, landlocked or island coun-

tries) of the total exports to all destinations. In the case of sisal, the 6% figure is reduced to 4.5%. This provision has been included so that a complex mechanism is not used to cover exports of a commodity which is no longer so important.

The fluctuation threshold for entitlement to transfer means that there must be a fall of at least 6% (1.5% for the least developed, landlocked or island countries) compared with the average export earnings to the destinations referred to in Article 150 (see above) over the preceding four years. Consequently, the system is to a great extent automatic.

What happens if the annual resources are exceeded?

A new mechanism has been introduced to cater for the eventuality of transfer requests exceeding the annual resources.

Initially, a maximum of 25% of the following year's instalment is used in advance.

If these measures are inadequate, the amount of each transfer is automatically reduced in accordance with precise rules.

Use of transfers: Community supervision (Art. 170 and 171)

For the ACP, in Lomé III "the desiderata of ... efficiency and accountability were accommodated without any excessive notion of conditionality and Community intervention", said Mr Rabbie Namaliu, President of the ACP Council of Ministers in his address at the signing of the Convention. The conditions laid down for the use of STABEX transfers in Art. 170 and 171 illustrate this remark:

- i. "Before the transfer agreement is signed, the recipient ACP State shall communicate substantial information relating to the programmes and operations to which it has allocated or undertakes to allocate the funds ..."

In all cases the transferred resources must be allocated to the affected sector in order to preserve its production capacity or, if diversification proves necessary, they may be used in other sectors which will serve "economic and social development". (Art. 147)

- ii. "Within twelve months of the signing of the transfer agreement the recipient ACP State shall send the Commission a report on the use which it has made of the funds transferred."

While the ACP retain full sovereignty over the use of STABEX transfers, they cannot - and this is an innovation compared with the preceding Convention - do whatever they like with the funds and must to some extent be accountable to the Community.

Repayment of transfers (Art. 172 to 174)

If exports of the product which is the subject of the transfer pick up again, the recipient State must make repayment in accordance with a predetermined procedure. The rate of repayment is based on the surplus of export earnings in relation to an average calculated on the basis of earlier years.

The least developed States are exempt from repayment.

If there is no recovery in the situation in the sector in question over the seven years following the transfer, the debt is cancelled.

ACP SUGAR: The EEC's promise to buy (Art. 175 and Protocol No 7)

After the United Kingdom's accession to the EEC, the member countries of the Commonwealth Sugar Agreement were particularly concerned by the fact that this Agreement was to expire on 28 February 1975. This meant that the quota system applied to their exports of sugar to the UK market would come to an end. The guarantee sought by them was finally obtained in the context of the Lomé Convention under the Sugar Protocol.

The Sugar Protocol is based on an economic necessity. It also has consequences in the development field. The EEC refiners (particularly in the UK) cannot do without cane sugar as their refineries cannot process sugar beet. The quantities delivered by the ACP therefore provide European refiners with a guarantee that they can continue with their activities. Furthermore, the system instituted under the common organization of the market enables members of the Protocol to obtain a stable income, which facilitates their economic and social development.

A commitment to purchase and a commitment to supply at guaranteed prices for an indefinite period

The Protocol provides for the annual purchase by the EEC of agreed quantities of cane sugar expressed in tonnes of white sugar (approximately 1.3 million tonnes in all) from the ACP producer countries. The purchases are made at levels within the range of prices derived from the Community prices laid down each year for EEC producers.

It is only if the ACP do not find any buyers that a price and purchasing guarantee comes into operation, as with European producers. So far this has never happened. While the Community has undertaken to purchase these quantities, the ACP countries have in turn undertaken to supply it with those quantities. Hence the contractual nature of the Protocol. It should be pointed out that the benefit of the guaranteed prices is not a one-way thing: if prices spiral on the world market, the Community will here find supplies at prices identical to those of its internal market.

If an ACP country does not deliver the volume allotted to it, that volume is reduced for the following delivery periods by the undelivered quantity, and that quantity may eventually be shared out among other supplier countries. The ACP country in question may, however, invoke grounds of force majeure,

i.e., circumstances arising from causes beyond the control of the exporting country which were not the result of its own action in reducing production or withdrawing its supplies of sugar. If the European Commission recognizes that this request is justified, that country's allocation is not reduced by the undelivered quantity.

Although annexed to the first Lomé Convention, the second Convention and now to this Convention, each of which was concluded for five years, the Sugar Protocol was established for an indefinite period. This confers upon it an existence of its own, as it were, even if one of the articles of the Protocol states that, after five years, the parties may denounce it, subject to two years' notice.

Prices on the world sugar market are badly depressed and the development of the production of sweeteners on major consumer markets such as the United States has helped to make the situation worse, as if it was not bad enough already. The Community is restricting production of such sweeteners and is attempting to limit its own production of beet sugar (see prices proposed by the Commission).

If one adds to this the considerable investment made with gay abandon in sugar production in certain ACP countries, increasing supply even further (with the aid sometimes of EEC Member States), it is easy to imagine the unfavourable climate encountered by the ACP countries' sugar exports outside the EEC's purchasing guarantee or other bilateral supply contracts.

In this context of low world prices, the Sugar Protocol remains vital for certain ACP countries, particularly for Mauritius and Fiji, whose economies are based almost exclusively on sugar.

Allocation of the quota among the ACP

Following the recent reallocation as a result of Trinidad and Tobago's failure to supply the quantities allotted to it, the quantities allocated to each producer ACP State as from the 1984/1985 marketing year are as follows:

	<u>tonnes of white sugar</u>
Barbados	50 048.8
Belize	40 104.4
Congo	10 000.0
Fiji	164 862.1
Guyana	158 935.3
Ivory Coast	10 000.0
Jamaica	118 300.0
Kenya	5 000.0
Madagascar	10 572.8
Malawi	20 617.8
Mauritius	489 914.2
St. Christopher and Nevis	15 394.4
Suriname	0
Swaziland	117 450.2
Tanzania	10 000.0
Trinidad and Tobago	43 500.0
Uganda	0
Zimbabwe	30 000.0

MINING PRODUCTS: SYSMIN (Art. 176 to 184)

The mining sector is of particular interest to certain ACP countries which have no significant exports apart from their mineral resources (Mauritania, for instance, with its iron ore). A system for helping ACP countries which export agricultural commodities was already in existence (STABEX) but it could not be extended to cover mining products as it was not designed to do so. The idea therefore arose, at the time of the Lomé II negotiations, to institute a special system for helping ACP countries whose economies depend on mining products. This is how SYSMIN came into being.

There are features which are peculiar to the mining sector. In an area where cyclical overproduction is not uncommon, it is not a question of maintaining production volumes at any cost, as this would have the effect of increasing imbalance and depressing prices. What may, however, be necessary is to preserve economically viable production capacity as intact as possible, so that the countries concerned can take advantage of the recovery when the market recovers its poise. It may also be necessary to safeguard the transport infrastructure (export capacity) for mining products.

A system of aid - SYSMIN - with its own particular features, was consequently set up. Its key element is production capacity. Its central objective is to maintain that capacity at a viable level.

While the STABEX mechanisms are to a large extent automatic, this is not the case with SYSMIN. The latter does, however, contain special provisions to avoid aid being "spread too thinly" or being over-concentrated on one or two countries.

A financing facility

SYSMIN is a financing facility open to mining ACP countries. It is designed to help those States to cope with "serious temporary or unforeseeable disruptions affecting those mining sectors and beyond the control of the ACP States concerned".

Countries covered (Art. 177)

Under Lomé III all ACP countries whose economy depends to a large extent on the mining sector may have recourse to the system.

The countries eligible under SYSMIN are:

- i. as a general rule, countries which depend (for 15% of their exports, or for 10% in the case of the least developed, landlocked or island countries) on one of the following products¹:
 - copper, including associated production of cobalt,
 - phosphates,
 - manganese,
 - bauxite and alumina,
 - tin,
 - iron ore;
- ii. by derogation on a case-by-case basis, any country which depends (for 20% of its exports, or 12% in the case of the least developed, landlocked or island countries) on its mining products as a whole (excluding oil, gas and precious minerals). This possibility did not exist under Lomé II.

Financial resources (Art. 178)

The amount of money allocated to SYSMIN is 415 million ECU, divided into equal annual instalments. Where necessary, and on a decision from the ACP-EEC Council of Ministers, 50% of the following year's instalment may be used in advance, except for the second instalment. Similarly, one year's allocation may be increased by the proportion not used the preceding year.

The conditions governing eligibility (Art. 179 and 180)

Countries are eligible for assistance from SYSMIN if there is a fall of at least 10% in the production or export capacity of a given sector. In other words, SYSMIN only intervenes in serious cases. Furthermore, the situation in question must be the result of exceptional events, whether of a technical, political or economic nature, the responsibility for which is not attributable to the negligence or improvidence of the ACP State in question.

Use of the funds: rehabilitate or diversify (Art. 182)

The funds must be used primarily to finance programmes for the rehabilitation, maintenance and rationalization of the sectors in difficulty, in order to restore the affected production and export capacity to a viable level. If,

¹ Further products may be added to this list by the ACP-EEC Council if there is any justifiable need to do so.

however, such rehabilitation is not attainable the Convention permits diversification.

Moreover, the main criterion in deciding whether a project is suitable for SYSMIN assistance is its contribution to the country's overall development. A SYSMIN operation therefore always has its origin in serious exceptional circumstances affecting the mining sector; the aid does not, however, have to be used exclusively in that sector. Finally, under no circumstances may a single State receive more than 35% of the funds available annually. That rate is, however, reduced to 15% where the assistance is decided by derogation.

Other provisions: advances and repayments

In emergencies an advance may be granted as pre-financing in the form of supplies, the provision of services, or of cash payments.

Aid granted under SYSMIN is to be reimbursed on the same terms and conditions as special loans (see Chapter on financial and technical co-operation).

IV

FINANCIAL AND TECHNICAL CO-OPERATION:
THE MAJOR INSTRUMENT

In order to implement all the measures listed in the detailed catalogue which Lomé III constitutes, the ACP and the EEC have a number of "instruments" at their disposal. Of these, financial and technical co-operation is the major one, a total of 6 060 million ECU from the EDF (i.e. excluding the STABEX and SYSMIN funds) and 1 100 million ECU in EIB loans being allocated to it.

Some development projects require capital contributions which the ACP countries cannot provide themselves: the finance provided under the European Development Fund (EDF) is therefore one of the means made available to them by the Community to make up for their own shortage of resources.

Other projects or programmes require assistance in the form of human resources (experts, technicians, engineers, etc.). This involves technical co-operation, which is also financed by the EDF.

The resources available under the heading of financial and technical co-operation must be used to help achieve the development objectives defined in the Conventions. From one round of negotiations to another, the tendency has been both to widen these definitions and make them more precise, so that over the years a complete catalogue of development activities has been drawn up. It must be acknowledged that the new Convention would appear to identify all possible avenues of ACP-EEC co-operation.

A growing proportion of the EEC's financial aid to the ACP is reserved for supporting regional integration efforts. At the start of each Convention the total amount of "programmable" funds (i.e. those reserved for financing projects) is allocated partly to each country for its national projects and partly to regional programmes, the latter allocation itself being divided up between the various major regions.

At the other end of the scale there are microprojects, schemes which, although modest in size, are effective because they directly involve the local population.

As regards the different sectors supported by financial and technical co-operation, rural development accounts for a growing proportion of funds: 40% of the resources programmed under Lomé II were allocated to that sector. These projects are increasingly concerned with food crops. Other sectors which are becoming more important are industrialization, energy and mining.

There have also been changes in the methods of financing projects. The first EDF was concerned only with grants and financed hardly anything apart from infrastructure projects. Lomé, after Yaoundé, continued the diversification process. Alongside grants there are special loans, European Investment Bank loans, either ordinary or with interest-rate subsidies, operations in the form of risk capital or quasi-capital. Special arrangements facilitate operations in favour of small and medium-sized enterprises; and co-financing operations are also possible.

Another aspect of financial co-operation, although not normally a means of investment, is emergency aid and aid for refugees, which have been allocated a total of 290 million ECU under Lomé III.

The large sums of money reserved for financial and technical co-operation are implemented only in a strictly defined framework and on completion of procedures which have been tried and tested under earlier Conventions.

Lomé III: overall improvements in financial and technical co-operation

Before looking in more detail at this chapter of the Convention, it is worth summarizing the innovations and improvements it contains compared with Lomé II. Six main aspects may be identified:

- i. Improved effectiveness thanks to genuine concerted action between Commission and recipient countries. The aim is to discuss and identify not only projects and schemes but above all development objectives and priorities and the most suitable ways and means of achieving them that are consistent with the ACP countries' strategies.
- ii. Lomé III will not be confined to new capital projects but will extend its range to schemes of the programme-aid type, including the financing of inputs to the productive system (for instance, equipment and fertiliser in a rural development programme) and the financing of maintenance projects during the start-up period and part of the operational period.

The European Bank will itself be able to finance the overhauling of industrial, energy and mining installations and not just the construction of new installations, as before.

- iii. An ongoing dialogue within the ACP-EEC Committee should make it possible to examine systematically practical implementing difficulties, bureaucratic bottlenecks, delays and cumbersome procedures. At all stages strict time-limits have been fixed for replies and follow-up action.
- iv. The microproject procedure, which makes it possible to intervene "at grassroots level" rapidly and effectively because of the involvement of the local community, has been extended to cover medium-sized projects.
- v. Technical co-operation is being radically reformed. It should be more suited to local conditions, and greater competition should help to bring down the cost of funding experts.
- vi. Lastly, emergency aid has been considerably improved.

Financial and technical co-operation: nine objectives (Art. 185)

Financial and technical co-operation is the prime instrument of the Lomé Convention. Nine objectives have been assigned to it in Lomé III:

1. To support and promote the efforts of the ACP States to achieve self-determined, self-reliant and self-sustained integrated social, cultural and economic development, on the basis of mutual interest and in a spirit of interdependence.
2. To help raise the standard of living and improve the well-being of the peoples of the ACP States.
3. To mobilize communities and encourage the participation of those involved.
4. To complement the efforts of the ACP States.
5. To promote the development of human resources and the rational utilization of the natural resources of the ACP States.
6. To permit the establishment of more balanced economic and social relations (reference to the new international economic order).
7. To provide emergency aid to ACP States which are victims of natural disasters.
8. To encourage co-operation among the ACP themselves.
9. To help the least-developed, landlocked and island ACP States to overcome the obstacles which hamper their development.

Scope (Art. 187 to 191)

Under Lomé III, financial and technical co-operation covers:

- (a) capital projects;
- (b) sectoral programmes;
- (c) rehabilitation of projects and programmes;
- (d) technical co-operation programmes;
- (e) deployment of flexible resources to help grassroots communities (for instance villages or fishing communities).

Aid may also be granted to solve problems of a structural nature, provided the solution envisaged is a long-term one. Generally speaking, aid may not be used to finance current administrative, maintenance and operating expenses, except in certain special cases (e.g. for project start-up periods, or to salvage the viability of a programme).

The funds provided may be used to cover both external costs and local expenditure. They can be used for projects and programmes in any of the priority

areas identified in detail in the second part of the Convention, in particular (Art. 190):

- (a) rural development, and especially the search for food self-sufficiency and food security;
- (b) industrialization, artisanal activities, energy, mining, tourism and economic and social infrastructure;
- (c) structural improvement of the productive sectors of the economy;
- (d) protection of the environment;
- (e) prospecting for, and exploration and exploitation of, natural resources;
- (f) training, applied scientific research and applied technology, technological adaptation or innovation and the transfer of technology;
- (g) industrial promotion and information;
- (h) marketing and sales promotion;
- (i) promotion of small and medium-sized national enterprises;
- (j) support for local and regional development banks and financing institutions;
- (k) microprojects for grassroots development;
- (l) transport and communications;
- (m) measures for promoting, in the field of air and sea transport, the movement of goods and persons;
- (n) measures for developing fishing activities;
- (o) development and optimum utilization of human resources, with special attention being paid to the role of women in development;
- (p) improvement of social and cultural infrastructure and services, and of housing and water supply.

Operations on specific themes of concern to a whole region and having an effect only in the long term may also be eligible for financing:

- drought and desertification control;
- prevention of natural disasters in the least-developed, landlocked and island ACP States;
- control of major endemic diseases and epidemics;
- hygiene and primary health care;
- control of endemic livestock diseases;
- measures to save energy;
- operations in general which are long-term and thus extend beyond any specific time-scale.

A very wide range of recipients (Art. 191)

Firms as well as governments or official bodies may also be eligible for aid. Among the administrative bodies Art. 191 mentions:

- the ACP States themselves;
- regional or inter-state bodies;
- authorized ACP-EEC joint bodies.

The following are also eligible for financial and technical co-operation, provided that they have received the approval of the ACP States concerned:

- the ACP States' financial institutions and development banks;
- local communities and any development body;
- enterprises registered in accordance with the regulations in the ACP;
- groups of ACP producers;
- scholarship holders and trainees.

Respective responsibilities: no change compared with Lomé II (Art. 192)

Nothing has changed from the preceding Convention regarding the respective roles of the ACP and the Community in matters of financial and technical co-operation. The ACP States alone choose their policies and their development strategies. The Convention has, however, endeavoured to define everything that will make for greater effectiveness of Community aid (in this connection, the ACP countries are aware of the need for rigour and consistency in their development policies). The Convention allows for a profitable dialogue between the EEC and the ACP, which has led some people to say that anything can come out of it ... even the best. Everything will depend, however, on the way in which each of the parties applies the spirit of the Convention.

Every three months an ACP-EEC Committee will meet to examine the implementation of financial and technical co-operation. And every year the ACP-EEC Council of Ministers will examine the problems which may arise and the smooth running of every aspect of co-operation; an annual report will be submitted to the Committee by the European Commission and the EIB and by the ACP States and their regional organizations (Art. 193).

A budget of 8 500 million ECU over five years (Art. 194)

The total funds for financial co-operation amount to 8 500 million ECU, spread over the five years of application of the Convention. The preceding Convention provided 5 227 million ECU, but the effects of inflation and the greater number of ACP States must be taken into account in appreciating the additional financial effort made by the countries of the Community.

Total resources are broken down as follows:

1. 7 400 million ECU for the European Development Fund, allocated as follows:
 - (a) 6 060 million ECU for projects and programmes, of which:
 - 4 860 million in the form of grants,
 - 600 million in the form of special loans,
 - 600 million in the form of risk capital;
 - (b) 925 million for STABEX;
 - (c) 415 million for SYSMIN;
2. 1 100 million ECU for projects and programmes, in the form of EIB loans made available from its own resources in accordance with the terms and conditions provided for in its Statute. These loans will receive an interest-rate subsidy financed by EDF grants.

Loans on very favourable terms (Art. 196)

The Convention provides for very favourable terms for loans to the ACP, whether they are granted from the funds managed by the European Commission or by the EIB.

- i. Special loans have a maturity period of forty years, with a grace period of ten years and an interest rate of 1% per annum. For the least-developed ACP, this rate is reduced to 0.50%.
- ii. The interest rates applied by the EIB are those in force at the time of the loan, reduced by 3% thanks to an EDF subsidy. The actual applied rate may not be lower than 5% or higher than 8%. The duration of the loans depends on the characteristics of the project being financed but may not exceed 25 years. They have a grace period which is also variable.

Vast choice in the methods of financing

"Projects or programmes may be financed by grant, or by special loan, or by risk capital, or by loans from the Bank from its own resources, or jointly by two or more of these means of financing" (Art. 197).

This opens a wide range of possibilities, which, in the last resort, depend on the economic characteristics of the project and the level of development of the recipient State. The following general rules may be defined:

- i. projects or programmes on which the economic return is not immediate, such as rural development projects, will be financed by grants directly managed by the European Commission;
- ii. if the return on a project can be quantified on valid economic grounds, the European Bank appraises the dossier, since it has all the necessary qualifications to undertake this task. By the same token, it manages loans from its own resources and from the resources held by the Commission (risk capital, special loans).

The task of the Bank is clearly defined in Art. 197 (5):

"The Bank's task in the ACP States shall be to contribute, through its own resources, to the economic and industrial development of the ACP States on a national and regional scale. To this end, the financing of productive projects and programmes in industry, agro-industry, tourism and mining, and in energy production, transport and telecommunications linked to these sectors shall be undertaken in the first place by the Bank with loans from its own resources or risk capital... " The Bank may also finance from its own resources projects in the area of commercial agriculture. Art. 197 also specifies that the least-developed, landlocked or island countries will be treated as priority candidates for the most favourable methods of financing, in particular grants, special loans and risk capital.

The economic, social and cultural impact of the methods of financing will also be taken into consideration.

The Convention gives certain details on particular methods of financing such as risk capital (Art. 199) and co-financing (Art. 200).

Risk capital

As its name suggests, this refers to funds for which there is no guarantee of repayment, as they involve projects which may or may not turn out to be profitable. They may be used for a number of purposes:

- i. to give enterprises a boost by increasing their capital. This contribution may be in the form of a temporary minority holding in a firm's capital (once conditions permit the holding is transferred, preferably to ACP nationals or institutions). It may also take the form of loans which can be repaid only if certain conditions are met: subordinated loans, which are redeemed and in respect of which interest, if any, is paid only after other Bank claims have been settled; conditional loans, the repayment or duration of which is governed by terms laid down when the loan is made; loans made to financial institutions in the ACP States (these loans may then be used for onlending to other firms and acquiring holdings in other enterprises). These three categories of loans constitute quasi-capital financing;
- ii. to finance studies for the preparation and finalization of projects and assistance to enterprises during the start-up period or for overhauling existing installations;
- iii. to finance research and preparatory investment in the mining sector.

Co-financing: the Community's role as catalyst

The earlier ACP-EEC Conventions have confirmed the role which the Community can play in attracting other investors. Very often, the mere presence of the EEC as a project funder is regarded as a guarantee by other international or private donors active in the Third World. Article 200 lays down a number of rules here and in particular defines the type of operations which the Community can co-finance:

- (a) large-scale projects;
- (b) projects in which EEC participation, and an input of its project expertise, may encourage the participation of other financing agencies;
- (c) projects which may benefit from a blend of concessionary and non-concessionary financing;
- (d) projects which may be broken down into subprojects that could be eligible for financing from different sources;

- (e) projects for which a diversification of financing may entail a reduction in the cost;
- (f) regional or inter-regional projects.

Co-financing may take the form of joint or parallel financing. One of the problems raised by co-financing operations is the fact that they are awkward to administer. Here again the Convention states that the Community may provide its support or act as lead or co-ordinating agency on behalf of the lenders.

Microprojects with the active involvement of the local community (Art. 201)

This type of project has proved its effectiveness under the earlier Conventions. It enables the Community to finance projects which are too small to be the subject of a special financing contract approved by Brussels. The principle is as follows: blanket decisions are taken for each programme and the national authorities are able to approve the individual decisions simply with the agreement of the local Commission Delegate.

Two conditions are laid down in the Convention to determine eligibility for aid:

- i. projects must meet a real priority need at local level (for instance, water supply for a village);
- ii. they must be able to be undertaken with the active participation of the local communities.

This participation may take the form of a contribution in kind, in the form of supply of services or in cash. It must be matched to the actual capacity of the community to contribute. The project must also stem from an initiative taken by the local community.

These projects normally concern country areas, although urban areas are not excluded.

The EDF contribution may not normally exceed two-thirds of the total cost of each project and must not be greater than 250 000 ECU. It is drawn from the grant allocation.

Overall loans for small and medium-sized enterprises (Art. 206)

The Convention states that the Community may grant financial aid to small and medium-sized enterprises, either directly, when it is a case of providing the necessary vocational training for such enterprises, or via a public or semi-public body (of the development bank type). This aid may be in the form of grants.

The overall aid is granted either:

- i. by the EIB, from the resources administered by it, to banks or financial institutions for onlending to small and medium-sized industrial, agribusiness or tourist enterprises;
- ii. by the Commission from the resources administered by it, to public bodies, local authorities or co-operatives, with a view to developing the artisanal, commercial and agricultural sectors, and to creating or strengthening guarantee funds for credit to small and medium-sized enterprises (this latter provision is a new feature compared with Lomé II).

Emergency aid and aid for refugees (Art. 203 to 205)

A total of 210 million ECU is reserved from the Fund for financing emergency aid to be granted to the ACP States faced with serious economic and social difficulties of an exceptional nature (in particular natural disasters).

In addition, the sum of 80 million ECU is earmarked for helping the ACP States which take in refugees or returnees, both to meet their immediate needs and to participate in their integration in the long term.

Emergency aid is non-repayable and must be granted with speed and flexibility. It may take the form of works, supplies, the provision of services and payments in cash. It may be used to procure food, seeds, shelter, materials, medical supplies, clothing and transport or to meet other needs.

Emergency aid may also be used for the immediate repair of damaged structures or equipment, to get them back in working order as soon as possible.

Since speed is of the essence with this type of aid, the Convention provides for accelerated procedures. In particular, emergency aid may be implemented via specialized organizations (UN agencies, Red Cross, NGOs, etc.).

Aid to refugees and returnees may also be channelled via specialized organizations or the United Nations.

Technical co-operation: developing human resources

The shortage of qualified personnel is badly felt in all developing countries. Technical co-operation is therefore an essential part of the Lomé Convention.

Its purpose is "... to provide enhanced support for the development of human resources in the ACP States" (Art. 207).

The principle is to call upon technical personnel from outside the applicant ACP State (consultancy firms, consulting engineers or experts, training or research institutions) where there is no such personnel locally, but also at the same time to train technicians so that the ACP countries become increasingly less dependent in these areas.

Article 208 lists certain areas in which technical assistance can operate. It may be linked with particular operations (for instance, assistance with the execution and supervision of works) or be of a general nature (e.g., sectoral or product studies).

In practical terms, co-operation is provided under service contracts concluded with individual experts, or consultancy firms, training and research institutions, or exceptionally, by direct labour.

Service contracts are awarded on the basis of restricted invitations to tender. Certain contracts, however, may be awarded by direct agreement, notably in the following cases: small-scale or short-term operations, operations assigned to individual experts or operations continuing others already in hand (Art. 209 to 213).

Implementation procedures: from programming to execution

The provisions on programming, appraisal, implementation and evaluation of projects and programmes are largely taken over from the earlier Conventions.

Out of concern for effectiveness and consistency, however, special emphasis is placed on consultations and exchanges of view, in order to "... ensure that the operations... agreed on are inserted harmoniously and effectively in their (the ACP States') development strategies."

The first stage: programming (Art. 215 and 216)

It is the new approach adopted for programming which is the key element in the search for effectiveness.

The aim of this approach is, before financing projects, to be able to organize between the Commission and each ACP State, at the beginning of the period covered by the Convention, in-depth discussions in order, firstly, to identify the sector(s) in which Community aid is to be concentrated, and then for both sides to find the most appropriate ways and means of achieving the objectives laid down in those sectors.

- i. To begin with, the Commission transmits to each ACP State an indication of the amount available to it under the Convention;
- ii. each ACP State then submits to the Community a draft indicative programme established on the basis of its development objectives;
- iii. following exchanges of views which enable the Community to know what the development objectives and priorities of each ACP State are, the sectors on which aid is to be concentrated and the resources to be deployed, an indicative programme is adopted by common accord. That programme is binding upon the Community and the recipient State.

An important aspect of the indicative programme is its flexibility and the fact that it may be revised at the request of the ACP (for instance, in the case of a change of priority).

Each indicative programme determines the financial structure of the aid by specifying the overall amount of the programmable aid, the proportion of

grants and the proportion of loans (special loans and risk capital). It also contains a timetable for commitments.

Project identification and appraisal (Art. 218 to 221)

Once the general framework constituted by the indicative programme is established, each beneficiary (ACP State or other approved operators) prepares the dossiers for the specific projects and programmes and transmits them to the Commission Delegate in the ACP State concerned. The Delegate then takes the necessary action.

These dossiers are then appraised and assessed from the angle of their effectiveness, their viability and the return on the proposed projects but also in terms of their socio-cultural aspects. Attention is also paid to the ability of the ACP States to maintain and manage the projects. The appraisal process is completed by a financing proposal. If the Community fails to adopt the proposal, the ACP State may ask for the matter to be raised within the ACP-EEC Committee or to be heard by the decision-making bodies of the EEC.

With a view to expediting the procedures, financing decisions may deal with multiannual programmes or overall amounts where the financing concerns:

- (a) training programmes;
- (b) microproject programmes;
- (c) trade promotion schemes;
- (d) sets of operations of a limited scale in a specific sector;
- (e) sets of technical co-operation schemes.

Financing agreements and loan contracts (Art. 222)

A financing agreement sets the seal on the appraisal of a project or programme where it is financed by an EDF grant.

In the case of a special loan, a loan contract is then drawn up. To cater for possible cost overruns, the beneficiary ACP State must make provision in its indicative programme for a reserve, as any such overrun will be borne by it. In exceptional cases, certain overruns may be financed by the Community.

Evaluation (Art. 224)

Evaluation is undertaken during the execution of projects and programmes on the basis of a report established jointly by the EEC and the ACP. Joint evaluation is arranged after the projects have been completed.

These evaluation exercises make it possible to "adjust one's sights" and to draw conclusions for future operations.

Execution: under the responsibility of the ACP

The ACP States are responsible for executing projects. The Commission merely satisfies itself that projects are executed in accordance with EDF rules and on the best possible economic and technical conditions.

Drawing up of works and supply contracts

Invitations to tender: the invitation to tender dossier is drawn up by the ACP State and it is examined and approved by the Delegate and the Commission (invitation to tender by normal procedure) or by the Delegate alone (accelerated procedure). A timetable is established by common accord and the invitation to tender is issued, and published in the Official Journal of the European Communities, in the official journal of the State in question and other ACP States and in the specialized and wider press.

Tenders are opened at a meeting of the relevant committee of the ACP State, at which the Delegate is present as an observer.

The successful tenderer is named by the ACP State and must be approved by the Delegate, or the Commission.

The contract is negotiated and concluded by the ACP State and notified to the Commission via the Delegate, who endorses it.

As a general rule, contracts are awarded by international invitation to tender. The relevant authorities of the ACP States may, however, in agreement with the European Commission, authorize in exceptional cases:

- the placing of contracts after restricted invitations to tender;
- the conclusion of contracts by direct agreement;
- the performance of contracts by direct labour.

These exceptions to the general rule apply in the following cases:

- operations relating to emergency aid;
- other operations where the urgency of the situation is established;
- operations where the nature, small scale or certain particular characteristics of the works or supplies so warrant.

Contracts by direct agreement: the ACP State freely enters into any discussions it considers useful and awards the contract to the firm it selects. The contract is notified to the Commission via the Delegate, who endorses it.

Execution by direct labour: the ACP State draws up an estimate, which is notified to the Commission via the Delegate, who endorses it.

Execution of contracts or estimates: at the technical level, the ACP State is responsible for:

- adjustments or alterations in matters of detail;
- changes of site for multiple-unit projects;
- imposition or remission of penalties for delay;
- discharging guarantors;
- purchase of goods, irrespective of their origin, on the local market;
- use of construction equipment and machinery not originating in the Member States;
- subcontracting;
- provisional or final acceptances.

The chapter dealing with investment is one of those containing some of the most innovative aspects of the new Convention.

While Lomé II confined itself to acknowledging the importance of private investment and the need to promote it by inviting economic operators to participate in the ACP countries' industrial development effort, but provided only for ad hoc measures in this respect, the new Convention defines a wide area of co-operation, drawing conclusions from past experience.

This substantial progress was due to the open-mindedness shown by the ACP States at the Ministerial Negotiating Conference held in Suva (Fiji) in May 1984. On that occasion problems connected with the protection and promotion of private investment were examined in a discussion that for the first time was free of prejudice or ideological opposition.

From this resulted a text whose principles and guidelines are unprecedented in a co-operation agreement negotiated within a multilateral framework, even if their implementation requires further studies.

The chapter consists of two parts which have complementary objectives, since one is aimed at ensuring a climate conducive to private investment and the other at increasing flows of capital to the ACP countries.

Creating a climate conducive to private investment

With regard to the first aspect, the parties undertake to accord fair and equitable treatment to investors, to create clear and stable conditions conducive to their participation in the development effort and to maintain a predictable and secure investment climate (Art. 240).

In order to encourage the establishment of such a "climate", the parties state that they are prepared in particular to conclude, on a basis of mutual interest, investment promotion or protection agreements between States or agreements relating to specific projects in all sectors (whereas the preceding Convention confined this possibility to the mining and energy sectors

alone). Moreover, they have confirmed and clarified the principle of non-discrimination between Member States' firms in the treatment of investment by the host country.

The most remarkable innovation in this respect is, however, probably the joint ACP-EEC insurance and guarantee system against political risks incurred by investors which the signatories to the Convention have decided to study (Art. 244). This idea would no doubt be more meaningful if the text had given more practical details; but for reasons to do with the division of responsibilities between the Member States and the Community, it was not possible to take the matter any further at this stage. However, by mentioning the idea of a joint guarantee system, the new Convention has made a first significant step in an important area of discussion between industrialized and developing countries.

Increasing capital flows to the ACP countries

An improvement in the investment climate and the terms of investment is obviously one of the conditions which will determine the increase in capital flows to the ACP countries. At the technical level, Lomé III aims to ensure that such a movement takes place by providing for the study of measures designed to encourage co-financing with the private sector, to improve the ACP States' access to the international financial markets and to stimulate activity on the domestic financial markets.

At the same time, as part of financial and technical co-operation, the possibilities must be explored of reinforcing the internal capacity of the ACP economies to generate export earnings capable of sustaining investment (credit lines for financing the importation of intermediate products for the export industries, promotion of exports, strengthening of regional payment mechanisms in order to facilitate intra-ACP trade, etc).

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To support the research which will be undertaken in accordance with the two aspects detailed above, provision has been made for a number of information and promotional measures aimed in particular at publicizing the facilities

and terms offered by specialized financial institutions and heightening the interest shown by European investors in the ACP countries.

Particular attention is paid to the quality of feasibility studies, and to the preparation and management of projects the improvement of which may qualify for Community aid.

Lastly, regular reports by the Commission will inform the Council of Ministers on investment flows between the Community and the ACP States, loans, arrears in payments and capital movements.

The Convention stipulates that all studies on questions of investment must be launched no later than one year after the entry into force of the Convention and the results of those studies must be submitted to the parties not later than two years after the Convention's entry into force.

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The new emphasis placed in Lomé III on the role of private investment is confirmed and strengthened by some of the provisions on other instruments of co-operation.

This is the case with industrial co-operation, the tasks of which are better defined and where the CDI has been given a Governing Board, selected on the basis of professional competence, and capable, thanks to the powers granted to it, of effectively steering the activities of the Centre. The same also applies, but in a more exemplary fashion, in the field of financial and technical co-operation, where it will be noted that conditional loans (from risk capital) may now be granted, by derogation, to a firm in a Community Member State to enable it to undertake a productive capital project in an ACP country at the request of that country (Art. 199(3)). In the same spirit the Commission and the EIB will try to involve private sector resources in projects financed by them (Art. 200 (3)).

VI

THE INSTITUTIONS OF THE CONVENTION

The institutions set up under Lomé III to manage the Convention are identical to those of Lomé II, with one exception: a single Joint Assembly has been created by merging the Consultative Assembly and the Joint Committee. The partners considered that these bodies overlapped.

Whilst the institutional set-up has hardly changed at all, the political functions of the institutions have been more clearly defined and added to.

The Council of Ministers

Composed, on the one hand, of the members of the Council of the European Communities and of a member of the Commission and, on the other hand, of a member of the government of each of the ACP countries, the Council of Ministers is responsible for the major political decisions which may be necessary during the life of the Convention. Its decisions are binding. It meets at least once a year and may delegate powers to the Committee of Ambassadors.

The Council periodically examines the results of the Convention and takes any measure necessary in order to attain the objectives laid down therein. It defines the broad lines to be assigned to development activities. A politically significant fact is that the new Convention emphasizes the Council's role in ensuring that the interpretation of the Convention and questions of principle regarding its application should be settled on a joint basis, in close consultation between the parties within the institutions.

Lastly, any matter which may have an influence, positive or negative, on the pursuit of the objectives of the Convention may be referred to the Council.

The Committee of Ambassadors

Composed of a representative of each of the ACP States, a representative of the Commission and a representative of each EEC Member State, the Committee of Ambassadors meets at least once every six months under the chairmanship, held alternately, of an ACP representative or a representative of the EEC States.

It monitors implementation of the Convention and progress towards achieving the objectives laid down in it. It also has the task of supervising the work of all committees or bodies set up or provided for in the Convention, of assisting the Council of Ministers and carrying out any brief given to it by the Council and of submitting to it any proposals, resolutions, recommendations or opinions which it considers necessary. It gives an account of its activities to the Council of Ministers. A representative of the European Investment Bank is present at meetings of the Council or Committee of Ambassadors wherever necessary.

The Joint Assembly

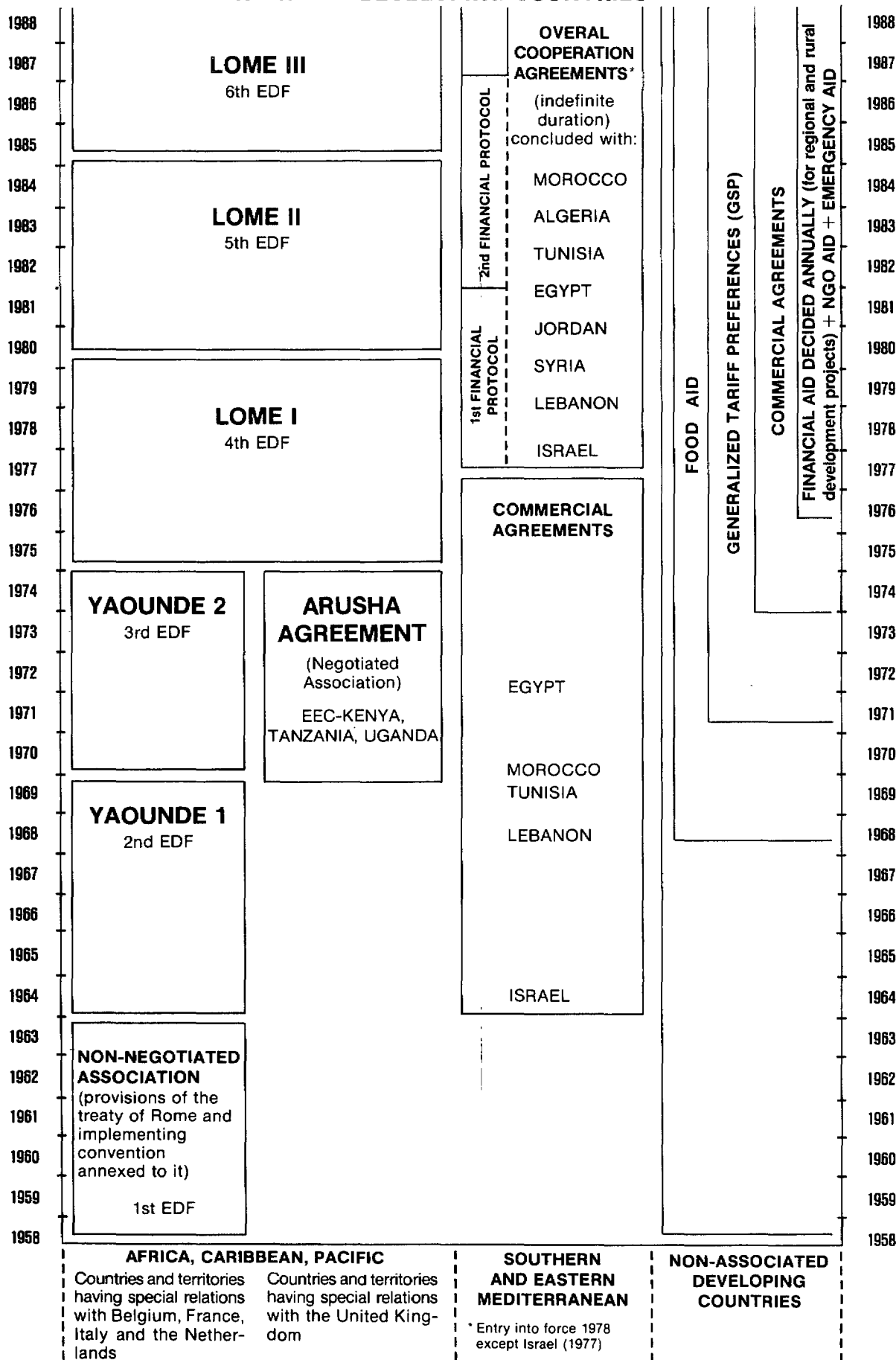
The Joint Assembly is composed of equal numbers of, on the one hand, members of the European Parliament and, on the other, of ACP members of parliament, or failing this, of other representatives designated by the ACP States.

It is a consultative body, which seeks "through dialogue, debate and concerted action" to promote better understanding between the peoples of the ACP States and those of the EEC and to promote public awareness of the interdependence of their peoples. It must also act as a think tank on development, encourage research and initiatives in order to improve ACP-EEC co-operation and urge the executives to implement the Convention in the most efficient manner possible.

Participation of trade unions, business and professional groups

The Convention stresses the contribution which trade unions, business and professional groups in both the ACP and EEC countries can make to the cause of development, and the importance of encouraging contacts with and among them. The Council and the Joint Assembly are both responsible for organizing such contacts and consultations.

CHRONOLOGICAL SUMMARY OF THE EEC'S RELATIONS WITH THE DEVELOPING COUNTRIES



ANNEX 2

IMPORT TREATMENT APPLICABLE TO AGRICULTURAL PRODUCTS AND FOODSTUFFS ORIGINATING IN THE ACP STATES

Common organizations of the market	Special treatment for the ACP States	Common organizations of the market	Special treatment for the ACP States
1. Beef and veal Heading Nos : 01.02 A II 02.01 A II 02.06 C I a) and b) 02.01 B II b) 15.02 B I 16.02 B III b) 1aa 1bb	Exemption from customs duties for all products covered by the common organization of the market. Where, in the course of a year, imports of beef and veal falling within tariff subheading 02.01 A II or 16.02 B III b) 1 aa originating in an ACP State exceed a quantity equivalent to that of imports into the Community from 1969 to 1974 inclusive in which the greatest quantity of Community imports for the origin in question was recorded plus an annual growth rate of 7%, exemption from customs duties on the products from that origin shall be partially or totally suspended. In such 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. (See also the special arrangement for traditional exporters of beef and veal).	10.06 B III Broken rice	— for broken rice by 50% and 0,30 ECU. This exception is valid only if a charge of an equivalent amount is levied at the time of export by the ACP State concerned. Should 122 000 t (husked rice equivalent) of rice (10.06 B I and B II) and 17 000 t of broken rice (10.06 B III) be exceeded, the general third-country arrangements shall apply.
2. Sheepmeat and goatmeat Heading Nos : 01.04 A and B 02.01 A IV B II d) 02.06 C II a) and b) 15.02 B II 16.02 B III b) 2aa	Exemption from customs duties for all products covered by the common organization of the market. Non-application of the levy for headings: 01.04 B (other than pure-bred breeding animals) 02.01 A IV and } other than meat of 02.06 C II a) } domestic sheep	7. Processed cereal and rice products Heading Nos : 07.06 ex 11.01 C, D, E, F, G ex 11.02 A, B, C, D, E, F, G 11.04 C 11.07 ex 11.08 A I, II, III, IV, V 11.09 17.02 B II 17.02 F II 21.07 F II 23.02 A 23.03 A, B II 23.06 A II 23.07 ex B	Non-application of the fixed component of the third-country levy for these products. In addition, reduction of the variable component of the levy per 100 kg: — by 0,181 ECU for ex 07.06 A (manioc, salep and other similar roots and tubers with high starch content, excluding sweet potatoes) — by 0,363 ECU for ex 11.04 C (flours and meal of sago and of manioc, salep and other roots and tubers falling within heading No 07.06) — by 50% for ex 11.08 A V (starches other) Non-application of the variable component of the levy for roots, flour, meal and starch of arrowroot falling within subheading 07.06 A, 11.04 C or 11.08 A V.
3. Fishery products Heading Nos : 03.01 03.02 03.03 05.15 A 16.04 16.05 23.01 B	Exemption from customs duties for all products covered by the common organization of the market.	8. Fresh or chilled fruit and vegetables	Exemption from customs duties without marketing timetable for: 07.01 F Leguminous vegetables G ex IV Radishes (<i>Raphanus sativus</i>) known as "mooli" S Sweet peppers T Other 08.02 D Grapefruit E Other 08.08 E Pawpaws ex F Passion fruit 08.09 Other 80% reduction of customs duties for: 08.02 A Oranges 08.02 B Mandarins, (including tangerines and satsumas); clementines, wilkings and other similar citrus hybrids 60% reduction of customs duties for: 07.01 I I Onions from 15 February to 15 May within the limits of a ceiling of 500 tonnes 07.01 M Tomatoes from 15 November to 30 April within the limits of a quota of 2 000 t 08.08 A II Strawberries from 1 November to the end of February within the limits of a quota of 700 t. 40% reduction of customs duties for: 07.01 Q IV Mushrooms (other) 07.01 G Carrots from 1 January to 31 March within the limits of a ceiling of 500 tonnes 07.01 K Asparagus from 15 August to 31 January.
4. Oil seeds and oleaginous fruit Heading Nos : 12.01 B 12.02 15.04 15.07 B, C, D 15.12 15.13 15.17 B II 23.04 B	Exemption from customs duties.		
5. Cereals Heading No : 10.05 B Maize Heading No : 10.07 B Millet C Grain sorghum	Reduction of the third-country levy by 1,81 ECU/tonne. Reduction of the third-country levy by 50%.		
6. Rice Heading Nos : 10.06 B I a) paddy rice 10.06 B I b) husked rice 10.06 B II semi-milled rice or wholly-milled rice	In compliance with common rules, reduction of the third-country levy per 100 kg: — for paddy rice by 50% and 0,36 ECU — for husked rice by 50% and 0,36 ECU — for wholly milled rice: — by the component for the protection of the processing industry — by 50% and 0,54 ECU — for semi-milled rice: — by the component for the protection of the processing industry converted on the basis of the conversion rate for wholly milled rice and semi-milled rice — by 50% and 0,54 ECU		

Common organizations of the market	Special treatment for the ACP States	Common organizations of the market	Special treatment for the ACP States
<p>9. Processed fruit and vegetable products</p> <p>Heading Nos :</p> <p>ex 07.02</p> <p>ex 07.03</p> <p>ex 07.04, 08.03 B, 08.04 B</p> <p>08.10</p> <p>08.11</p> <p>08.12</p> <p>08.13</p> <p>ex 13.03 B, ex 20.01, ex 20.02</p> <p>20.03 to 20.06</p> <p>ex 20.07</p>	<p>Exemption from customs duties for all products covered by the common organization of the market.</p> <p>In addition, abolition of the additional duty on sugar for preserves and juices.</p> <p>— of pineapple</p> <p>— of passion fruit and guava</p> <p>— of mixtures of pineapple, pawpaw and pomegranate</p> <p>In addition, abolition of the additional duty on sugar for preserves of grapefruit.</p>		<p>19.04 Tapioca and sago; tapioca and sago substitutes obtained from potato or other starches</p> <p>19.07 Bread, ships' biscuits and other ordinary bakers' wares, not containing added sugar, honey, eggs, fats, cheese or fruit, etc.:</p> <p>D. Other, containing by weight of starch:</p> <p>ex II. 50% or more with the exception of ships' biscuits</p> <p>19.08 Pastry, biscuits, cakes and other fine bakers' wares, whether or not containing cocoa in any proportion:</p> <p>B. Other:</p> <p>IV a) ex I</p> <p>V ex a) and b) } biscuits</p>
<p>10. Wine</p>	<p>Exemption from customs duties for:</p> <p>Heading Nos:</p> <p>20.07</p> <p>A I ex a) } b) I } B I a) I aa) 11 } Unfermented bb) } grape juice b) I aa) 11 } bb) }</p>	<p>13. Special arrangements for importing certain agricultural products originating in the ACP States or the OCT into the French overseas departments</p>	<p>Non-application of the third-country levy.</p>
<p>11. Unmanufactured tobacco</p> <p>Heading No :</p> <p>24.01 Unmanufactured tobacco; tobacco refuse</p>	<p>Exemption from customs duties.</p> <p>If serious disruptions occur as a result of a large increase in duty-free imports of unmanufactured tobacco (24.01) originating in the ACP States, or if these imports create difficulties which result in deterioration of the economic situation of a region of the Community, the Commission may take, or may authorize the Member State(s) concerned to take, the necessary safeguard measures pursuant to Article 139 (1) of the Convention, including measures to offset deflection of trade.</p>	<p>Heading Nos :</p> <p>01.02 A II: Live animals of the domestic bovine species, other than purebred breeding animals</p> <p>02.01 A II: Meat of bovine animals fresh, chilled or frozen</p>	<p>Non-application of the third-country levy.</p> <p>Non-application of the third-country levy.</p> <p>Necessary measures against disturbances of the Community market should imports exceed 25 000 tonnes per annum.</p>
<p>12. Certain goods resulting from the processing of agricultural products</p> <p>Heading Nos :</p> <p>ex 17.04</p> <p>18.06</p> <p>19.02 to 19.05</p> <p>19.07 to 19.08</p> <p>ex 21.02</p> <p>ex 21.06</p> <p>ex 21.07</p> <p>ex 22.02</p> <p>ex 29.04</p> <p>ex 35.01</p> <p>35.05</p> <p>ex 38.12</p> <p>38.19 T</p>	<p>Exemption from the fixed component for the entire sector of products processed from agricultural products (Council Regulation (EEC) No 3033/80).</p> <p>In addition, suspension of the variable component for:</p> <p>17.04 Sugar confectionery, not containing cocoa:</p> <p>C. White chocolate</p> <p>18.06 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> <p>19.02 Malt extract; 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>II. Other:</p> <p>(a) containing no milkfats or containing less than 1,5% by weight of such fats:</p> <p>4. containing 45% or more but less than 65% by weight of starch</p>	<p>10.05 B : Maize</p> <p>14. Special arrangements for imports of rice into Reunion</p>	<p>Non-application of the third-country levy.</p>

ANNEX 3

LIST OF ACP STATES (66)

AFRICA

Angola
Benin
Botswana
Burkina Faso
Burundi
Cameroon
Cape Verde
Central African Republic
Chad
Comoros
Congo
Djibouti
Equatorial Guinea
Ethiopia
Gabon
Gambia
Ghana
Guinea
Guinea-Bissau
Ivory Coast
Kenya
Lesotho
Liberia
Madagascar
Malawi
Mali
Mauritania
Mauritius
Mozambique
Niger
Nigeria
Rwanda
Sao Tomé & Príncipe
Senegal
Seychelles
Sierra Leone
Somalia
Sudan
Swaziland
Tanzania
Togo
Uganda
Zaire
Zambia
Zimbabwe

CARIBBEAN

Antigua & Barbuda
Bahamas
Barbados
Belize
Dominica
Grenada
Guyana
Jamaica
St. Christopher & Nevis
St. Lucia
St. Vincent & Grenadines
Suriname
Trinidad & Tobago

PACIFIC

Fiji
Kiribati
Papua New Guinea
Solomon Islands
Tonga
Tuvalu
Vanuatu
Western Samoa

ANNEX 4

THE LEAST-DEVELOPED, LANDLOCKED AND ISLAND ACP STATES

Title V of Part Three of the Convention specifies which ACP States are regarded as the least-developed, landlocked and island ACP States (see below).

These countries are eligible for more favourable arrangements in the following areas of the Convention:

- (a) agricultural and food co-operation
- (b) industrial development
- (c) transport and communication
- (d) development of trade and services
- (e) regional co-operation
- (f) general trade arrangements
- (g) STABEX and SYSMIN
- (h) financial and technical co-operation
- (i) investment
- (j) rules of origin.

The least-developed ACP States (Art. 257)

Antigua and Barbuda	Grenada	Sao Tomé and Príncipe
Belize	Guinea	Seychelles
Benin	Guinea-Bissau	Sierra Leone
Botswana	Kiribati	Solomon Islands
Burkina Faso	Lesotho	Somalia
Burundi	Malawi	Sudan
Cape Verde	Mali	Swaziland
Central African Republic	Mauritania	Tanzania
Chad	Mozambique	Togo
Comoros	Niger	Tonga
Djibouti	Rwanda	Tuvalu
Dominica	Saint Christopher and Nevis	Uganda
Equatorial Guinea	Saint Lucia	Vanuatu
Ethiopia	Saint Vincent and the Grenadines	Western Samoa
Gambia		

Landlocked ACP States (Art. 260)

Botswana	Lesotho	Swaziland
Burkina Faso	Malawi	Uganda
Burundi	Mali	Zambia
Central African Republic	Niger	Zimbabwe
Chad	Rwanda	

Island ACP States (Art. 263)

Antigua and Barbuda	Jamaica	Sao Tome and Príncipe
Bahamas	Kiribati	Seychelles
Barbados	Madagascar	Solomon Islands
Cape Verde	Mauritius	Tonga
Comoros	Papua New Guinea	Trinidad and Tobago
Dominica	Saint Christopher and Nevis	Tuvalu
Fiji	Saint Lucia	Vanuatu
Grenada	Saint Vincent and the Grenadines	Western Samoa