

**ACP - EEC
CONSULTATIVE ASSEMBLY**

Working Documents

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Report

drawn up on behalf of the Joint Committee

on the proposals designed to ensure respect for and protection of the rights of migrant workers, students and trainees who are nationals of one of the Contracting Parties and regularly resident in a Member State or an ACP State

Rapporteur: Mr V. MICHEL

Further to a declaration adopted by the Joint Committee on 1 December 1977 in Maseru (Lesotho), the Joint Committee set up, at its meeting of 30 May 1978 in St. Georgès (Grenada), a joint working party instructed to submit proposals to the Joint Committee designed to ensure respect for and protection of the rights of migrant workers, students and trainees originating in the ACP countries and regularly resident in the countries which are signatories to the Convention.

The working party appointed Mr Dewulf rapporteur at its meeting of 30 May 1978 in St Georgès (Grenada).

The draft report was considered at the meeting of the Joint Committee of 31 January 1979 in Bordeaux (France).

At its meeting of 9 October 1979, the Joint Committee appointed Mr Michel rapporteur in place of Mr Dewulf.

The draft report presented by Mr Michel on behalf of the working party was considered on 27 February 1980 in Arusha (Tanzania) and unanimously adopted.

Present: Mr Bersani, co-chairman; Mr Michel, rapporteur; Mr Balfe (deputizing for Mr O'Leary), Mr Barbi, the representative of Cameroon, Mrs Carettoni Romagnoli (deputizing for Mr Bonaccini), Mrs Cassanmagnago Cerretti, Mrs Castellina, Mrs Castle, Mr Cohen, Mr Colla, the representative of the Congo, Mr Dalziel, Mr Deleau (deputizing for Mr Messmer), Mr Denis, the representative of Djibouti, Mr Enright, Mrs Ewing, Mr Fellermaier (deputizing for Mr Hume), Mr Fergusson, Mr Ferrero, the representative of Fiji, Mr Flanagan, Miss Flesch, Mrs Focke, Mr Forster, Mr Früh, Mr Glinne, Mr de Goede, Mr Griffiths (deputizing for Mr Seefeld), the representatives of Guinea and of Guyana, Mr Haagerup, Mr Irmer, Mr Jaquet, Mr Jürgens, the representative of Kenya, Mr Kühn, Mr Lezzi, Mr Ligios (deputizing for Mr Collomb), Mr Luster, the representative of Madagascar, Mr Moreau, Mr Narducci, the representative of Nigeria, Mr Pearce, Mr Penders, Mrs Poirier, Mr Poniotowski, Mr Puletti, the representative of Ruanda, Mr Ryan, Mr Sablé, Mr Schieler, Mr Konrad Schön, the representative of Senegal, Mr Sherlock, the representatives of Somalia and of Swaziland, Mr Taylor (deputizing for Mr Jakobsen), the representative of Tonga, Mr Turner, the representative of Uganda, Mr Vandewiele, Mr Vergeer, Mr Vergès, Mrs Walz, Mr Wawrzik, the representative of Zaire.

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The Joint Committee hereby submits to the ACP-EEC Consultative Assembly the following motion for a resolution together with explanatory statement:

MOTION FOR A RESOLUTION

on respect for and protection of the rights of migrant workers, students and trainees who are nationals of one of the Contracting Parties and regularly resident in a Member State or an ACP State

The Consultative Assembly,

- meeting in Luxembourg from 24 to 26 September 1980,
 - referring expressly to the declaration adopted in Bordeaux on 31 January 1979 by the Joint Committee,
 - having regard to the provisions of Annex XV of the second Lomé Convention, relating to workers who are nationals of one of the Contracting Parties and are residing legally in a Member State or an ACP state,
 - having regard to the report of the Joint Committee (Doc. ACP-EEC/18/80),
1. Welcomes the fact that the new Convention takes account of the situation of migrant workers from the ACP countries residing in the countries of the Community to ensure respect for and protection of the fundamental rights of individuals, and also of the situation of workers from the Community residing in ACP countries;
 2. Stresses the political significance of this step by which the negotiators have recognized that the two Parties could not confine themselves to an economic and commercial agreement, and that the bonds which unite them were such that the situation of certain social categories could no longer be ignored by the Convention;
 3. Deplores, however, the unambitious nature of the provisions adopted which are confined to guaranteeing non-discrimination with regard to working conditions, pay and social security;
 4. Notes that these provisions are far from adequate in view of the difficulties encountered by ACP migrant workers;

5. Considers that the proposals and guarantees contained in this resolution must be implemented as a matter of priority for the practical benefit of ACP migrant workers, whose social situation and problems of integrating into their host country are particularly acute;
6. Desires non-discrimination to apply fully to all workers' rights, irrespective of whether their families are living with them or have remained in their own country, but considers at the same time that the re-uniting of families must be encouraged;
7. Takes the view that it has the responsibility to see that these provisions are enforced and, for this purpose, instructs the ACP-EEC Council to report to it annually on their implementation;
8. Considers that, on the basis of undertakings contained in the second Lomé Convention, the Community and its Member States should embark upon a policy of coordination and harmonization of the various national policies relating to the rights of ACP migrant workers;
9. Requests that the ACP-EEC Council reconsider the matter of ACP migrant workers with a view to extending the present provisions;
10. Invites the ACP-EEC Council to involve, through its ad hoc committees, the social partners, both of the ACP and of the EEC, in the consideration of the matter of migrant workers;
11. Recalls that, in line with the declaration adopted in Bordeaux, the objective to be achieved in this regard is to guarantee to ACP migrant workers resident in the Member States of the Community:
 - recognition of their economic, social and trade union rights,
 - recognition of their individual rights and of those of their families,
 - improved living conditions,
 - the actual exercise of their recognized rights;
12. Requests that the Council of Ministers of the European Communities adopt the proposal for a directive on clandestine immigration which, while laying down preventive and restrictive measures to combat illegal migration and employment, safeguards the rights of workers arising out of the work they perform;
13. Underlines the need for the Member States of the Community to undertake, in agreement with the parties concerned and their organizations, a detailed study of the situation of ACP students and trainees, in order to be in a position at last to define a coherent and comprehensive policy in this regard; this policy should include, inter alia,

vocational training, grant, study and training programmes and facilitate the reintegration of those concerned at the end of their studies in their country of origin;

14. Recalls that in order for ACP students and trainees to be properly integrated into their new environment, they must be briefed in advance on the situation that awaits them and in particular on the reception and temporary care facilities provided;
15. Invites the Member States of the Community to take account in their legislation on aliens of the special status of ACP students and trainees, by putting an end to discretionary powers as regards expulsion and by guaranteeing to trainees and students receiving grants the right of appeal against arbitrary administrative decisions;
16. Is of the opinion that it is the responsibility of the Community to promote the coordination and harmonization of the various national policies on the subject so as to give more weight to the concept of ACP student/trainee;
17. Stresses that there is work to be done in informing and educating Community public opinion with regard to the problems of third-world citizens and particularly those originating in the ACP countries;
18. Considers that in order for such an information and education policy to be effective, it should be backed up by the competent non-governmental organizations which should be given moral and financial support;
19. Invites those Member States which do not as yet possess legislation enabling racism to be combated, to adopt such legislation as soon as possible.

EXPLANATORY STATEMENTINTRODUCTION

On 1 December 1977 the Joint Committee adopted the following declaration at its meeting in Maseru (Lesotho):

'The Joint Committee, having regard to the situation of students, trainees and migrant workers originating in the ACP and regularly resident in the countries of the Convention, entrusts a Joint Working Party¹ with the task of submitting to it such proposals as may be appropriate to ensure the respect and protection to which those persons are entitled'.

This declaration clearly reflects the concern of the Joint Committee to ensure respect for the fundamental rights of nationals of the ACP States who have emigrated to the Community countries. The fact that students and trainees are included together with migrant workers is an expression of the Joint Committee's wish to see the entity of the ACP, arising out of the Convention of Lomé, recognized and treated as such by the Community.

During its first meeting (held in Grenada on 30 May 1978) the Working Party, in defining its objectives and working procedures stressed the scale of the problem raised by the Joint Committee. Respect for and protection of migrants originating in the ACP involve such diverse spheres as individual rights, social rights, legal protection, the right to work, living conditions and the right to a specific cultural identity, etc.; these different areas are treated in a partial and disparate manner through national statutory provisions and regulations in the Community countries.

To obtain the basic information necessary for its work, the Working Party needed first of all to acquire the fullest possible documentation on these statutory provisions and regulations in the Community and at least in those of its Member States which are the principal host countries for ACP migrants. While finding it necessary to obtain this legal documentation, the Working Party recognized that it must not lose sight of its primary objective which was to promote and defend the rights of man in one specific area.

¹ In its decisions of 30 May 1978 and 9 October 1979, the Joint Committee decided that the Joint Working Party should consist of:

- for the ACP: Ambassador Traoré (Mali), Chairman, together with representatives of Fiji, Jamaica, Kenya, Trinidad and Tobago, Zaire and Zambia
- for the European Parliament: Mr Flanagan, Mr Lezzi, Mr Michel (rapporteur), Mrs Poirier, Mr Sablé and Mr Turner

The legal documentation which reflects the existing situation was therefore no more than the point of departure for a study from which concrete political proposals for the future Convention were to emerge. In order to arrive at these concrete proposals and gain a full awareness of the realities of the problem, it was necessary to go beyond the strictly legal aspect and consider all the difficulties facing migrants from the ACP countries arising, in particular, from the various forms of discrimination to which they are exposed. Hence the Working Party's decision to arrange hearings with representatives of ACP migrants.

A first hearing of representatives of migrant workers took place on 29 November 1978 in Paris. A second hearing with representatives of organizations of students originating in the ACP countries was held in Brussels on 11 January 1979.

At the ACP-EEC Joint Committee's meeting in Bordeaux (France) of 29 January to 1 February 1979 the Working Party presented an interim report together with a motion for a declaration on the migrant workers aspect. This step was taken because the proceedings of the Working Party had not yet reached a sufficiently advanced stage on the subject of students and stagiaires; moreover, it was important for the Working Party, through a declaration, to be able to make known its demands, before the conclusion of the negotiations on the new Convention, concerning the idea of including a 'social chapter' and on the content thereof.

It should be remembered that following this initiative, the Joint Committee adopted on 31 January 1979 a declaration requesting that 'in the negotiations on the future ACP-EEC Convention, the signatory parties should undertake to conclude, within a given time limit, an agreement on the protection of the rights and improvement of the living conditions of ACP migrant workers resident in the Member States of the Community' (for full text of declaration, see Annex I).

In the final paragraph of the declaration, the Joint Committee instructed its Working Party to 'continue its task with a view to drawing up proposals for the improvement of the situation not only of workers, but also of students and trainees originating in the ACP countries, and ACP migrants resident in other ACP countries'. This is what the present report is trying to do. As regards the migrant workers aspect, the proposals made through the Bordeaux interim report need to be updated, in the light of, in particular, the declaration in Annex XV of the second Lomé Convention signed on 31 October 1979 (see Annex II).

As for the 'students and trainees' part of this report, a brief analysis is given of the situation, followed by a number of proposals designed to lead to an improvement in the present situation.

Before turning to the substance of this explanatory statement, the Working Party wishes to clarify the procedure followed by it in its work. In the case more specifically of migrant workers, the question put to the Working Party has direct implications for the economic and employment policies of the Member States. It nevertheless considers that the terms of reference defined in the declaration of the Joint Committee do not extend to an analysis of the causes of migration, its effects on the economies of the Member States or to any attempt to review or change those policies. Its role consists rather in taking note of a given situation in the migration sector and, working on that basis, in defining measures to be taken in order to improve the living conditions of ACP migrants.

CHAPTER I - MIGRANT WORKERS ORIGINATING IN THE ACP COUNTRIES AND RESIDING
IN THE COMMUNITY

1. THE DIFFERENT CATEGORIES OF MIGRANT WORKERS IN THE COMMUNITY

A distinction can be made between several different categories of migrant workers in the European Community depending on the provisions governing their admission, residence and employment.

- (a) The most favoured category, i.e. workers originating in other Member States of the Community, enjoy total freedom of movement and freedom to provide services. However advanced the existing Community regulations may be, they will have to be supplemented to achieve completely equal treatment in respect of living and working conditions.
- (b) Migrant workers from third countries which have concluded special agreements comprising social clauses with the Community constitute a second category. These agreements including a social component ensure Community protection for these workers, particularly in respect of acquired social security rights. The Community has concluded agreements of this type with Portugal, Greece, Turkey and the Maghreb countries.
- (c) Some third countries have concluded bilateral agreements with the Member States to regulate the situation of their migrant workers. These agreements, sometimes drawn up in parallel with the Community agreements which have a social component, generally comprise rules governing recruitment, information, training, accommodation, living and working conditions, etc. However, they do not provide the same degree of protection as the Community regulations.
- (d) Migrant workers from third countries which have concluded no bilateral agreement with one or more Member States of the Community constitute a fourth category. These migrant workers are therefore subject to national provisions of common law relating to access to the territory and to the employment market.

Quite apart from the differences stemming from national statutory provisions and regulations, there are thus many different legal regimes in the Community characterized by the degree of discrimination between workers as a function of their country of origin:

- national workers
- Community migrant workers
- migrant workers from third countries which have concluded agreements with the Community

- migrant workers from third countries which have concluded bilateral or multilateral agreements with one or more Member States
- migrant workers from third countries covered by the normal regime of the Member States.

Almost all migrant workers from the ACP countries fall into the latter, least favoured category.

2. COMMUNITY POLICY

A. Proposals from the Commission of the European Communities

The Commission formulated its policy when it presented its action programme for migrant workers and members of their families in December 1974. According to this document, one of the principal objectives of the programme must be to 'progressively eliminate all discriminatory treatment in respect of living and working conditions where migrant workers originating in third countries have been authorized to work in the Community'.

The Commission sees the progressive elimination of all discrimination as involving:

- measures to overcome the handicap due to a lack of occupational training
- measures to end the shortage of decent accommodation at a reasonable rental; this shortage obliges migrant workers to live in ghettos with all the attendant risks of racial tension and xenophobia
- more flexible conditions to enable migrant workers to be joined by their families
- an end to the discretionary powers of national administrations in the matter of expulsion
- extension of the benefit of all social security provisions to all migrant workers (conditions to benefit from family, head of family and accommodation allowances; transfer of pension rights, etc.)
- creation of reception and information structures; organization of language courses.

A further objective of the Commission is to eliminate as far as possible all clandestine immigration which is the root cause of many situations which are incompatible with human dignity. A proposal for

a directive on this subject to which the European Parliament gave its support when it adopted the Pisoni report in October 1978 is now in the hands of the Council. The European Parliament's resolution welcomes the fact that the control of illegal migration and employment is envisaged not merely through preventive and repressive measures but also **safeguards the rights** accruing to migrant workers from the work already done by them.

As to the exercise of civic and political rights which is at present conditional in the Member States on acquisition of the nationality of the host country, the Commission feels that action should be taken to encourage participation by migrant workers in municipal life. This participation would result from the creation of a system of consultative bodies enabling migrants to exercise a genuine influence over the decisions to be taken at this level and to be represented validly in the various municipal bodies of an educational, social and cultural nature.

Your rapporteur, however, feels that local consultative councils **should only be considered** a transitional step - and by no means an indispensable one - towards participation. He draws attention to the fact that the presence of immigrant workers and their families constitutes a key factor of regional development policy: they contribute not only as consumers to the health of the local economy, but also constitute a considerable antidote to population decline in some countries. Whatever the state of the economy at a given time, the presence of immigrant workers has proved necessary as a result of the **disaffection** of the indigenous population for certain jobs.

A systematic refusal to deny migrant workers a say in politics would in the long term lead to a reduction in the status of the working class and of the parties which fight on its behalf within the framework of political decision-making.

The organization of the European Economic Community pursuant to the Treaty of Rome postulates the exercise of civil rights for all the workers belonging to it, wherever they may be. Participation in decision-making of an economic nature in connection with elections to boards and committees in industry, as already practised in certain EEC states, should, in all fairness be gradually extended to political decision-making.

Any hostile attitude towards the legitimate aspirations of immigrants could **well** lead to their being gradually pushed out on to the fringes of political and social life, which would be harmful for their integration into the host community.

The exercise of political rights cannot be dissociated from other aspects of civil life: economic, social and cultural rights. To grant rights in one of these fields without granting political rights is in fact to force the immigrant to abandon any hope of taking part in the making of decisions affecting the community of which he feels himself to be a member, despite the fact that by his mere presence he contributes to fixing the numbers of members of parliament and local and provincial councillors.

The right to vote is thus an important instrument for encouraging and facilitating the harmonious integration of immigrants into their host community. The right to vote is also a positive step in the fight against racism. The right to vote (and that to stand for election) at local (municipal) level could initially be granted after a period of regular residence (say, 5 or 10 years). It could contribute towards the integration of these immigrant workers whatever their nationality.

The Joint Committee, for its part, considered that such a claim was premature at this stage and that in particular its implementation was incompatible at the present time with national legislation on the right to vote. Consequently, the motion for a resolution submitted to the Consultative Assembly contains no reference to this matter:

Your rapporteur is convinced, however, that this problem cannot be avoided for much longer and that sooner or later measures along the lines proposed will have to be taken.

Moreover, the Commission of the European Communities considers it essential to move towards the coordination of the Member States' immigration policies and towards a Community employment policy as a response to the far-reaching changes which have taken place on the Community employment market.

B. Evolution of the structure of employment in the Community

This policy should be pursued by the Commission in the context of an evolution of the structure of employment in the Community, dominated not only by the present economic recession but also by demographic trends in Europe¹. These trends will result in growing employment difficulties for the next 7 to 8 years. After 1985, the rate of growth of the active population in the Member States will be much slower but at the same time will probably show a sharp increase in Greece, Spain and Portugal which have applied to join the Community.

¹ Commission Spokesman's Group. Press Release No. IP (78), 20 March 1978

Against this background a number of Member States have taken measures temporarily suspending the admission of new migrant workers from third countries. Given this restrictive policy towards third countries, the Commission feels that the main effort in immigration legislation should relate to the quality of the statutory provisions rather than to the number of immigrants admitted.

C. Position of the Council of the European Communities

On the basis of the action programme presented by the Commission, the Council adopted on 9 February 1976 a resolution¹ in which it states that

'Whereas it is also necessary to improve the circumstances of workers who are nationals of third countries and members of their families who are allowed into the Member States, by aiming at equality between their living and working conditions, wages and economic rights and those of workers who are nationals of the Member States and members of their families;' (5th recital)

The Council also considers it necessary 'to promote consultation on migration policies vis à vis third countries and to examine, where appropriate, problems facing workers who are nationals of the Member States residing in third countries;' (6th recital)

Finally, 'the actions to be taken in favour of migrant workers and members of their family must accord with activities concerning consultation on the employment and social protection policies of Member States' (7th recital). In the present economic and social situation of the Community, these actions should be concentrated on the improvement of the situation of migrant workers and their families who are already present in the Member States (paragraph 2). In this context the Council 'considers that with a view to promoting the social and occupational advancement of migrant workers and members of their families, particular importance should be attached to measures concerning vocational training, housing, social services, medical and social care schemes including preventive medicine, schooling of children, information, and the creation of a better understanding among the general public of the host country of the problems of migrant workers and members of their families' (paragraph 3).

Through this resolution, the Council thus signifies its approval of the policy proposed by the Commission. To the extent that it covers migrant workers originating in third countries, this resolution can provide an interesting basis of reference for the proposals which the Working Party is to submit to the Joint Committee.

¹ OJ No. C 34 of 14.2.76

3. INTERNATIONAL CONVENTIONS

A. ILO Conventions

Two international labour conventions adopted by the ILO in 1949 (Convention No. 97) and 1975 (Convention No. 143) deal with the protection of migrant workers.

According to information supplied by the Commission, Convention No. 97 has been ratified by Germany, Belgium, France, the Netherlands and the United Kingdom. Ratification of Convention No. 143 is still under consideration in the nine Member States.

Convention No. 97 requires the signatory states to

- verify, where appropriate, both at the time of arrival and departure, the state of health of migrant workers and members of their families,
- see to it that migrant workers and the members of their families benefit from adequate medical protection (Article 5)
- apply, without discrimination of nationality, race, religion or sex, to immigrants who are legally present on their territory, a treatment which is no less favourable than that accorded to nationals of the country concerned in the matter of
 - (a) remuneration, family allowances, working hours, paid holidays, apprenticeship and occupational training, employment of women and adolescents, membership of union organizations and enjoyment of the benefits provided by collective housing agreements;
 - (b) social security, income tax and other taxes relating to employment and charged to the employee, and legal proceedings in areas referred to in the Convention (Article 6).

Article 8 of the Convention stipulates that a migrant worker who has been permanently admitted into a contracting country, and members of his family, may not be sent back to his country of origin - except when so requested or otherwise provided - when he is unable to exercise his employment for reasons of sickness or accident.

Your rapporteur would like to point out in connection with Article 8 that serious attention should be given to the problem of involuntary unemployment, of particular relevance at the present time: migrant workers cannot, any more than national workers, be blamed for the economic crisis. Migrant workers have made a major contribution to the prosperity of their host countries. In times of

recession, they must, on the same basis as national workers, enjoy financial assistance (unemployment benefit) and vocational re-training to help them to reintegrate themselves into the world of work.

Finally, in Article 9, the contracting countries undertake to authorize, within the limits of national legislation, the transfer of all or part of the earnings and savings which the migrant worker wishes to transfer.

Convention No. 143 which has still not been ratified by the Community Member States relates to the promotion of equality of opportunity and treatment for migrant workers and also to the control of clandestine migration.

Although this convention has not yet been ratified by the Member States, its content is of great interest. Firstly, because Article 1 reaffirms the principle of fundamental human rights as applicable to migrant workers¹. Secondly, because Article 10 requires all contracting states to guarantee for migrant workers and the members of their families equality of opportunity in the matter of employment and occupation and equal treatment for purposes of social security, trade union and cultural rights as well as individual and collective freedoms.

Your rapporteur urges all the Member States to take action with a view to ratifying Convention No. 143.

B. The European Convention on the legal status of migrant workers

At the end of February 1978, this Council of Europe Convention had only been ratified by the FRG, Luxembourg, the Netherlands and Belgium.

In answer to a written question by Mr Dondelinger, a member of the European Parliament, the Commission stated its view that the provisions of the hard core of the Council of Europe Convention were not in general more favourable to migrant workers originating in the Community than existing Community legislation.

On the other hand, the European Convention comprises certain benefits in favour of migrant workers from third countries which are not yet granted under Community legislation. However, the Commission pointed out that the action programme for migrant workers and their families and the Council Resolution of 9 February 1976 (see above) require the Member States to take certain measures in favour of all migrant workers from third countries to ensure that they enjoy equal treatment in respect of living and working conditions, wages and economic rights.

¹ Article 1: Each Member State to which the present Convention applies undertakes to respect the fundamental human rights of all migrant workers.

4. AGREEMENTS CONCLUDED BETWEEN THE COMMUNITY AND THIRD COUNTRIES IN THE AREA OF THE PROTECTION OF THE RIGHTS OF MIGRANT WORKERS

As indicated above, the Community has concluded agreements covering the problem of migrant workers with the Maghreb countries, and also with Portugal, Greece and Turkey.

(a) EEC-Maghreb and EEC-Portugal cooperation agreements

Title III entitled 'Cooperation in the area of labour' of the EEC-Maghreb agreement¹ contains a number of provisions relating to migrant workers originating in the contracting countries. Identical provisions are to be found in an additional protocol to the EEC-Portugal agreement. These provisions are based on the principle of non-discrimination against migrant workers originating in the Maghreb countries or Portugal vis à vis nationals of the Member States in the matter of:

- working conditions
- remuneration
- social security
- retirement or invalidity pensions
- health
- family benefits for members of family resident in the Community
- free transfer of pensions, retirement pensions, survivors pensions, industrial accident or disability pensions (in the case of industrial accidents or illnesses).

With the exception of the provision relating to the aggregation of periods of payment of social security contributions in the different Member States of the Community, the Maghreb countries as well as Portugal grant analogous arrangement to Community nationals resident on their territory.

(b) Specific agreements concluded between the Community and Greece and Turkey

Specific agreements concluded within the context of the Association Conventions between these two countries and the Community provide for:

- the gradual attainment of freedom of movement for workers (in fact this provision has never been applied)
- the absence of all discrimination in respect of working conditions and remuneration as between migrant workers from Greece or Turkey and Community nationals

¹ OJ L 265 of 27.9.78

- aggregation of periods of social security contributions by migrant workers in the different Member States
- payment of family allowances to members of the migrant workers family residing in the Community
- transfer of pensions, retirement pensions, etc.
- promotion of the exchange of young workers
- implementation of occupational training programmes for migrant workers from these two countries.

5. LOME II AND THE PROTECTION OF THE RIGHTS OF
MIGRANT WORKERS ORIGINATING IN THE ACP COUNTRIES

By adopting on 1 December 1977 its declaration on the protection of the rights of migrant workers, the Joint Committee gave political expression to a central demand of the ACP States. The Organization of African Trade Unions had already informed the European Trade Union Confederation of its desire to see the problem of ACP migrant workers dealt with in the future Convention. Subsequent positions have also been made known. For example, the bilingual Panafrican Conference on the Convention of Lomé, meeting in Brazzaville in December 1978, asked for the creation of an 'EEC-ACP trade union coordinating committee' together with the recognition of and respect for the rights of ACP workers in the EEC.

The Joint Working Party was convinced of the need to extend cooperation between the ACP countries and the Community to the problem of ACP migrant workers. It was for this reason that it submitted to the Joint Committee, before the conclusion of the negotiations on the new Convention, an interim report together with a motion for a declaration. By adopting this declaration, the Joint Committee was thus adopting a position at the right moment by inviting the negotiators to endorse its proposals.

a) The proposals of the Joint Committee contained in the declaration of 31 January 1979

The declaration of 31 January 1979 was concerned both with the procedure to be adopted in order to arrive at an agreement on the protection of the rights of ACP migrant workers and with the content thereof.

1 Procedure

We have already seen that various procedures for extending the agreements concluded to date between the EEC and third countries to the problem of immigrant labour have so far been tried. They range from

the inclusion of a special chapter in the Convention to the system of additional protocols. However, these procedures all have a common feature: they imply a definitive agreement between the two parties on the content of the social provisions, in other words on the extent of the rights and guarantees granted and on the procedure for ensuring their application.

The Joint Committee felt that, given the imminent conclusion of the negotiations on the new Convention, the adoption of one of these procedures in the new Convention might have led to a hasty agreement and only partial solutions. This is why, in paragraph 2 of its declaration, the Joint Committee asked the negotiators of the new Convention to undertake to conclude 'within a given time limit, an agreement on the protection of the rights and improvement of the living conditions of ACP migrant workers resident in the Member States of the Community'.

Content

In adopting the declaration of 31 January 1979 the Joint Committee followed the proposals of the working Party regarding the content of the future agreement. When submitting its proposals, the Working Party had, through its rapporteur, stressed that the situation of ACP migrant workers in Europe could not be dealt with solely by recognizing certain social rights. The Working Party was strengthened in its conviction by the results of the hearings conducted with representatives of ACP immigrant associations.

The recognition of social rights is without doubt necessary, but is not sufficient in itself to establish equality with national workers. There are also the human, psychological, cultural, civic and political aspects, which are of vital importance and cannot therefore be left out of account.

As has been said above, the Joint Committee endorsed the Working Party's recommendations, in particular in paragraph 3 of its declaration. This invites the parties to the future Convention to undertake 'to guarantee to ACP migrant workers regularly resident in the territory of a Member State of the Community, the benefit of the rights and measures defined in the interim report of the Joint Working Party ...'.

According to the interim report, these rights and measures should include:

1. Recognition of the economic and social rights of migrant workers.

This implies that ACP migrant workers will benefit from:

- equal treatment with national workers in respect of earnings and working conditions;
- social and family benefits under the same conditions as nationals (social security, family allowances, unemployment benefits)
- social advantages connected with their employment
- all the special services and aids provided for workers as part of employment policy (placement, vocational training and guidance, retraining, etc.)
- equality of treatment in the exercise of union rights (freedom of affiliation, voting rights, eligibility for election to union or occupational bodies, etc.)
- all current provisions relating to security of employment
- entitlement to cumulative annual holidays without loss of other rights such as the right of residence and employment;

2. Recognition of individual rights for migrant workers and their families

These individual rights comprise in particular:

- a guarantee of freedom of movement in and out of the country for ACP migrants;
- a guarantee of freedom of expression, association and meeting;
- a prohibition on expulsion or withdrawal of the right of residence through administrative measures by the national authorities of the Member States;
- maintenance of the right of residence for migrant workers who are unemployed for economic reasons.

3. Improvement of the working conditions of ACP migrant workers

This improvement presupposes:

- the adaptation of housing policies in the Community to the problems of migrant workers;
- the introduction of measures enabling ACP workers to be assimilated into the undertaking and into their new environment;
- measures to protect the health of ACP migrants;
- the right for ACP migrants to be joined by their families (spouse and dependent children);
- the creation of reception structures providing for tuition in the language of the country of residence and to assist the new arrival with all administrative formalities;

- a guarantee that the children of ACP migrants will have access to general and vocational education on the same basis as the children of nationals;
- the provision of information to the population of the host countries on the problems of development and, more specifically, on the problems of ACP migrant workers.

4. Preparation of the return to the country of origin

With this end in view, ACP migrant workers should benefit from in particular:

- occupational training adapted to the economic situation and needs of their country of origin;
- maintenance, during their period of residence in the host country, of relations with their culture and language of origin.

5. Guarantee of the rights of ACP migrant workers and of the members of their families

ACP migrants must benefit from:

- the same protection for their person and property as nationals;
- the right to take legal proceedings;
- legal aid in the courts;
- the exercise of civil and political rights, according to the conditions set out above.

Finally, the Member States must undertake to ensure harmonization at Community level of the legal and jurisdictional guarantees of the rights granted by the future convention to ACP migrant workers and their families.

b) The provisions in Lomé II

The new Convention includes, among other innovations with regard to the first Convention, a 'Joint declaration on workers who are nationals of one of the Contracting Parties and are residing legally in the territory of a Member State or an ACP State' (see Annex II to this report).

By this declaration, the Member States of the Community confine themselves to according to workers who are nationals of an ACP State, legally employed in its territory, treatment free from any discrimination in relation to its own nationals:

- as regards working conditions and pay;
- as regards social security benefits linked to employment; this last measure extending to members of the family residing with the immigrant worker.

It should again be noted that the declaration includes a clause providing for mutual non-discrimination as regards the working conditions and pay of nationals of a Member State of the Community legally employed in the territory of an ACP Member State.

This declaration invites a number of comments. First of all, it must be said that it is at one and the same time a great step forward and an extremely timid one in that while its political significance is genuine, its actual content is limited.

Its political significance is genuine because for the first time (partly thanks to the efforts of the Joint Committee) the new ACP-EEC Convention contains a social chapter guaranteeing certain rights to migrant workers. Thus a first step - the most important one - has been made: the negotiators recognized that the contract between the two parties could not stop at purely economic and social matters, but that the strength of the ties binding them was such that the situation of certain social categories could no longer be overlooked by the Convention.

The limited nature of the content of the declaration is nonetheless evident, especially when it is compared with the proposals made by the Joint Committee at its meeting in Bordeaux in January 1979. To guarantee migrant workers treatment free from any discrimination as regards working conditions, pay and social security benefits was of course necessary (and as such constitutes a positive step), but this is clearly insufficient in view of the problems, difficulties and barriers they face. The Joint Committee's proposals were specially designed to deal exhaustively with these situations and set out the appropriate measures. It is moreover surprising that the Community did not see fit to accord migrant workers an arrangement as favourable as that guaranteed by the EEC-Maghreb agreements to the nationals of the States party to those agreements.

c) Implementation of the 'Joint declaration'

While considering this declaration annexed to the second Lomé Convention insufficient, the Joint Committee and the Consultative Assembly should ensure that its implementation leads to an actual improvement in the lot of ACP migrant workers. The exercise of such supervision requires that the ACP-EEC Council report annually on the fulfilment of the guarantees set out in the joint declaration.

Furthermore, the commitments entered into by the Member States and by the Community should serve as the springboard for coordination and harmonization action on the various national policies on rights and guarantees accorded to ACP migrant workers. In this regard it is essential for agreement to be reached, first of all, on a uniform interpretation of the expression 'workers who are nationals of an ACP State legally employed' in the territory of a Member State. Finally, a study should be made of the compatibility or otherwise of the different legislations and regulations in force or in preparation in the Member States, with the provisions of the joint declaration.

Your rapporteur feels that these few measures and initiatives could well, despite the limitations of the joint declaration, pave the way to an initial improvement in the lot of ACP migrant workers.

However, in addition to these implementation measures, the ACP-EEC Council and above all the Community and its Member States must re-examine the whole dossier in order ultimately to extend the provisions relating to ACP migrant workers. The Joint Committee remains convinced that the objective to be attained is that defined in its declaration of 31 January 1979.

The same applies to the specification of the beneficiaries of these provisions. We have already pointed out the need to agree on a uniform interpretation of the expression 'workers who are nationals of an ACP State legally employed' contained in the 'Joint declaration' annexed to the second Lomé Convention.

Finally, in connection with the recommended extension of the present provisions of Lomé II, the Joint Committee had the problem of defining what was meant by 'migrant workers originating in the ACP countries', which figured notably in the original Maseru declaration.

a) Definition of ACP migrant workers

There are no precise statistics of the number of migrant workers originating in the ACP countries and resident in the Community or its Member States. The Commission estimates the total number at around 400,000.

Their legal situation varies widely depending on whether they are migrant workers who only hold the passport of their country of origin or on the contrary are nationals of the New Commonwealth, Caribbean islands or Surinam and resident in the United Kingdom or Netherlands respectively.

In both cases, subject to certain conditions, these nationals are treated as British or Dutch subjects and enjoy the same civil and social rights as nationals of those countries. There are some 330,000 ACP migrants in this category (215,000 from the Caribbean and 70,000 from the English speaking African countries resident in the United Kingdom, together with some 45,000 workers from Surinam resident in the Netherlands since before 1976).

The moot point is whether the provisions contained in the Bordeaux declaration will apply to these 330,000 ACP workers to the extent that they do not already enjoy a more favourable situation, or whether they will on the contrary be confined to the 70,000 or so ACP migrant workers who only have a single nationality.

To answer this question it is necessary to consider the terms of reference given to the Joint Working Party by the Joint Committee. The Working Party was instructed to present proposals aimed at ensuring respect for and protection of the rights of migrant workers originating in the ACP countries. The operative word is 'originating' i.e. we are not concerned with nationals or citizens of the ACP countries. There can be no doubt that the migrant workers established in the United Kingdom or the Netherlands and benefiting from the provisions of the Commonwealth or Netherlands-Surinam Agreements do in fact originate in ACP countries.

Moreover, the terms of reference of the Working Party are not limited to the legal aspects of the problem of migrant workers but, as we have already seen, extend also to the human, socio-cultural and psychological aspects which are embodied in the terms respect and protection. The situation of migrant workers originating in the Commonwealth countries or in Surinam is not inherently different in these areas from the position of other ACP migrant workers, despite their legal status which makes them British or Dutch subjects. Finally, the problems of a subsequent return of this category of migrant worker to their country of origin are identical to those experienced by all ACP workers.

For all these reasons your rapporteur considers that the provisions defined by the Joint Committee in Bordeaux must apply to all of the 400,000 ACP migrant workers resident in the Community, since none of its provisions can justify treatment less favourable than that already accorded under existing texts.

That being so, the definition of the ACP migrant worker who benefits from these provisions might be based on that embodied in the European Convention on the legal status of migrant workers, i.e.

'For the purposes of the present agreement, the term migrant worker shall designate all workers originating in an ACP country and authorized by a Member State of the Community to reside on its territory in order to hold paid employment there'.

On the other hand, the provisions of the future agreement would not extend to frontier workers, artists, the liberal professions and merchant seamen.

CHAPTER II: ACP STUDENTS AND TRAINEES RESIDENT IN THE COMMUNITY

As has already been mentioned, the Working Party organized on 11 January 1979 in Brussels a hearing of the representatives of organization of students and trainees originating in the ACP countries. This hearing was most useful as it went some way to making up for the almost complete lack of information on the situation of foreign students and trainees in Europe. The direct testimonies given at this hearing improved your rapporteur's understanding of the specific problems of this category of ACP immigrants.

It emerged that the distinction between 'student' and 'trainee' was less important in practice than differences affecting their administrative status. Three categories or arrangements governing ACP students and trainees can be broadly distinguished:

- those coming under the category of scholarship-holders and trainees as provided for in Articles 46 and 49 of the first Lomé Convention;
- those taking part in education and training programmes of the Member States or of the ACP States;
- those to whom none of the above provisions apply.

Before examining the situation of the ACP students and trainees and defining proposals for improving it, it should be pointed out that the Working Party decided that its terms of reference did not extend to examining the aspects relating to the selection of ACP students/trainees. This means that this whole problem (the authorities carrying out the selection process - choice of selection criteria - 'elitist' policy or not etc.) was left out of consideration. As with the case of migrant workers, the Working Party decided that it should confine itself to considering an existing situation (the presence of ACP students and trainees in the Community) and to find solutions designed to 'ensure respect for and protection of the rights' which are their due.

1. STUDENTS AND TRAINEES PROVIDED FOR BY THE PROVISIONS OF LOME I

A. Legal bases

Scholarships and traineeships are granted pursuant to Article 46(1) and 49(2) of the first Lomé Convention. Both these articles are concerned with financial and technical cooperation and provide as follows:

- that the financing of projects and schemes shall include the means necessary for their implementation, especially that of technical cooperation schemes in the fields of training (Article 46(1), third indent);
- that scholarship holders and trainees may benefit from financial and technical cooperation for training schemes (Article 49(2)(e)).

More precisely, Article 6(3) of Protocol No. 2 on the application of financial and technical co-operation provides as follows:

'General technical cooperation comprises:

- (a) the grant of scholarships for studies, training courses and postal tuition to provide, preferably in the ACP States, for the vocational training and further training of the nationals thereof'.

This protocol also provides for the holding of short training courses in Europe.

B. Implementation

Under these provisions, several multi-annual training programmes have been financed as well as specific training schemes including the granting of scholarships for study and training courses. The emphasis being on on-the-spot training, the scholarships granted in Europe are only for:

- training which could not be provided in an ACP country,
- specialized studies and training courses,
- special programmes set up in cooperation with an ACP State.

In 1979 some 900 scholarship holders from the ACP States were receiving training in Europe under programmes financed by the Community.

For the purposes of the implementation of the scholarship and training programmes, the Commission of the European Communities has set out guidelines which have been assembled in the general provisions concerning the implementation of the programme of scholarships for study and training courses. These provisions were drafted in agreement with the ACP States.

C. Reception facilities

In order to assist the scholarship holders and trainees in the various training institutes or universities of the Member States, the Commission has concluded agreements with the relevant administrative bodies of the Member States. These bodies are responsible for providing

reception facilities for scholarship holders, following their progress, providing teaching back-up where necessary and providing a monthly allowance and other emoluments. They are also responsible for helping them to become as fully integrated as possible into the host country and for organizing a series of social and cultural activities to complement their training and bring them into contact with the social and economic realities of the host country.

A special programme of information meetings on the relations between the Community and the ACP countries is also planned.

D. Material conditions

As regards material living conditions, the Commission is following the trend in bilateral assistance from the Member States in respect of monthly allowance payments, social security, accommodation facilities etc. The Commission's grants are, as a general rule, subject to the same regulations as those governing bilateral assistance.

2. 'NON-EEC' ACP STUDENTS AND TRAINEES

Apart from the category of EEC students and trainees there exists, as mentioned above, that provided for under bilateral agreements. We have already seen that as far as material conditions are concerned, the situation of the two categories is substantially comparable.

The same is not, however, true of the reception and support facilities and the measures designed to help integrate ACP nationals into their new environment. Here, at least in theory, the ACP students and trainees would appear to be privileged by comparison with their fellows coming under other schemes.

There is no doubt that those worst off are the students not in receipt of grants (this situation not arising amongst trainees). These students, except those looked after by non-governmental organizations, do not benefit from any of the above measures. It would appear that in the majority of cases the authorities concerned with the problems of third-world students act as if all such students lived on grants. Thus many students not in receipt of a grant reside in the Community merely on the strength of a tourist visa and must cope as best they can.

This category of students is certainly the one most affected by the difficulties and obstacles set out briefly below. Nevertheless,

it can be said that in general all ACP students suffer from roughly the same treatment, irrespective of their financial situation.

3. OUTLINE OF THE DIFFICULTIES ENCOUNTERED BY ACP STUDENTS AND TRAINEES VISITING THE COMMUNITY

a) Complex administrative formalities

The lack of any genuine policy with respect to students from the third world means that they are subject to a wide variety of piecemeal regulations. In actual fact, a short-sighted, short-term policy is being applied, hence the great number of formalities to be completed by those concerned. The situation is complicated further by the fact that in the Member States several different ministries are involved (Justice, Education, Interior, etc.). The administrative rules produced absurdities, e.g. refusal of residence permit until enrolled at a school or university and vice versa.

In the face of such situations the administrative bodies hide behind the rules, which they apply to the letter. This attitude demonstrates the distrust of the authorities vis-à-vis the 'foreigner'.

Your rapporteur stresses that to treat immigrant students and trainees more favourably than immigrant workers would be to practise discrimination and would therefore be unacceptable. Immigrant workers are only allowed to stay and work in a Member State of the EEC under certain conditions limiting their stay and right to work. Students and trainees cannot be treated any differently.

b) Reception facilities - accommodation

The lack or inadequacy of reception facilities is a serious problem for students and trainees arriving in Europe. Ill-informed, or not informed at all, they do not know what formalities have to be completed or which departments are responsible, etc.

To help remedy this situation, those concerned should be advised to consult the appropriate agencies of the Community and its Member States in their country of origin.

These people immediately get a feeling of being alone in a foreign environment. On top of these initial difficulties come those connected with accommodation. For those who are not accommodated in hostels, the accommodation problem is very serious. Firstly, as ACP students and trainees and particularly those not in receipt of a grant have limited

funds, the range of accommodation available to them is restricted. Secondly, they often feel that they are refused accommodation because of their origin. Lastly, should they obtain accommodation, ACP students and trainees are often required to pay a deposit three times the amount required of nationals of the country, because they are foreigners.

c) De facto restrictions on freedom of association

Foreign students enjoy the right of association in all the Member States. However, owing to material and other difficulties which are the daily lot of the third-world student, he often has neither the time nor the desire to become involved with an association. In such a position a student has no energies left for anything but his studies. Furthermore, in many cases, the danger of losing his grant makes the examination pressure on the third-world student so great that he suffers from a psychological block. This failure to take part in associations only isolates third-world students further, morally and psychologically, and seriously undermines the defence and promotion of their interests.

d) Specific problems of women and of students' and trainees' families

In this context, women experience even greater difficulties than men in adapting to their new environment and pace of life. Furthermore, student residences for student families are few and far between, which makes the accommodation problem desperate. Lastly, the grants awarded (including those awarded by the Community) take no account of the student's family situation. It is not hard to imagine, therefore, the financial and attendant problems encountered by student or trainee couples.

Obligated to look for part-time work so as to be able to make ends meet, these students come face to face once again with red tape. Where the combination of part-time work with study is not actually prohibited (as in the Federal Republic) the regulations are to say the least very stringent and restrictive. The formalities to be accomplished in order to obtain the various necessary authorisations are not only very lengthy but also strewn with obstacles.

e) Cases of flagrant violation of human rights

On the practical level, the most frequent example of this is the refusal of accommodation for racial reasons.

On a more general plane, ACP students and trainees are subject, as are their worker compatriots, to various forms of harassment.

However, the most serious problem is without doubt the fact that the rights guaranteed to third-world students are becoming increasingly academic in that they cannot in fact be exercised.

It should also be pointed out that certain legal shortcomings or administrative practices constitute a violation of human rights. For example, in certain Member States, there is no means of redress in the event of the refusal by the aliens office to grant a residence permit. In other cases, the regulations allow foreigners to be imprisoned arbitrarily without any redress. Lastly, as regards decisions concerning residence permits, some administrations apply a system of confidential circular letters and take individual decisions which are not communicated to the parties concerned.

4. TOWARDS IMPROVING THE RESPECT FOR AND THE PROTECTION OF ACP STUDENTS AND TRAINEES

The many problems involved, their multiple root causes and the conflicting divisions of responsibilities do not make it easy to find solutions in respect of the rights and respect due to ACP students and trainees. For the sake of convenience, your rapporteur has set out his proposals for improving the situation according to the various levels of the competent authorities.

a) National policies of the Member States

We have stressed that in the majority of the Member States, the competent authorities are insufficiently informed about the problems of ACP students and trainees. Indeed, in certain countries of the Community, the authorities do not even know how many foreign students and trainees, and thus a priori how many from the ACP countries, there are in their countries. This by itself would be ample proof that no coherent approach to the matter exists; the result is a profusion of rules and regulations for which there does not exist any one authority responsible.

In order to remedy this situation, the Member States must undertake an urgent and in-depth study of the problems of ACP students and trainees, so that a coherent plan can be drawn up in this field. This should make it possible at national level for standard information documents to be published by the public authorities for ACP students and trainees.

A reception policy, accompanied by the appropriate back-up structure, must be introduced. The framing of this policy requires international cooperation between the Member States themselves, between the Member States and the Community and between each Member State and the countries of origin of the students and trainees.

As regards the legislation on aliens, account will have to be taken of the special situation of students and trainees, particularly those from the ACP countries. As regards administrative practices, that of confidential circulars on residence permits must be prohibited. Lastly, a procedure should be introduced whereby foreign students and trainees are able to appeal against any decision taken against them.

b) At Community level

As regards guaranteeing the rights of ACP students and trainees, the role of the Community is above all to promote coordination and harmonization of the regulations in the various Member States. The objective is two-fold: firstly, to confirm the status of ACP students and trainees resident in the Community, and secondly, to enable them to move more freely between the nine Member States.

Moreover, in view of the special links between the ACP and the Community the latter should take responsibility for the protection of and respect for the rights of ACP students and trainees resident in the Member States. Even if such responsibility were only to be symbolic, it would nevertheless constitute an important political and psychological step forward in the way in which the ACP nationals view their situation; moreover, a Community guarantee would confer on their situation a stamp of 'legality' which has been lacking until now.

During the debate of 27 February 1980 in the Joint Committee, it was suggested by some speakers that the Commission's commitment should go further. The competent ministers of the Member States should, they felt, in the context of their cooperation, harmonize the situation of grant-holders accepted by the host countries, on the basis of the currently most favourable situation. A second stage would involve the setting up at Community level of a compensation fund designed to lessen the disparities in the financial situation of the various students arising from the different schemes applying to them. Lastly, to offset the often disastrous consequences of long delays in the payment of grants by the administrative bodies, the creation of a Community guarantee fund might be envisaged which would grant advances to those concerned which could be deducted from the grant when it was eventually paid.

On a more practical and more immediate level, the Community, having taken responsibility for 'EEC students and trainees', must modify the arrangements in force. In particular, the sickness/accident insurance scheme in force which provides for traineeship periods during which the insured person enjoys no social protection whatsoever is quite unacceptable. By the same token, the amount of allowance or grant paid must necessarily take into account the family situation of the beneficiary.

c) Back-up measures

The socio-psychological background to the situation of the ACP students and trainees is, as we have tried to demonstrate, a very important factor. It is not enough, therefore, to try to improve the situation by means of national or Community legislation and regulations. These measures must be supplemented by schemes designed to create a climate and environment favourable to the general well-being of visitors from the ACP countries. This presupposes that the public be informed and educated about the problems of students and trainees from the third world and particularly those from the ACP countries. It is regrettable that hardly anything has so far been done in this field.

This is all the more regrettable as the instruments for providing this information and education are not lacking. There are numerous non-governmental organizations whose task is to assist the development of the third world and which are thus also concerned with the problems of students and trainees. The Community should therefore make use of these non-governmental organizations, by granting them the necessary assistance for a genuine information policy, which could help, for example, reduce latent xenophobia and racism. These non-governmental organizations could also help provide the necessary framework to integrate the ACP students and trainees into their new environment. Lastly, a climate allowing them to make the most of their stay in Europe could thus be created.

CHAPTER III - CONCLUSIONS

The Joint Working Party created by the declaration of the ACP-EEC Joint Committee of 1 December 1977 found itself faced with a complex and delicate task: complex because the breadth of the subject equalled only by the diversity of the situations it encompassed; delicate because the majority of the aspects to be considered were of a highly political and sensitive nature, which meant that they had to be treated with prudence and discretion.

From the outset, therefore, the Working Party decided to confine itself as far as possible to a strict observation of its terms of reference, i.e. respect for an protection of the rights of certain categories of ACP nationals resident in the Community.

Moreover, the Working Party felt obliged, in order to avoid embarking upon interminable research and deliberations which would have produced an unwieldy report, to streamline its analysis without distorting the facts. It is obvious, however, that certain aspects of the situation of the ACP nationals concerned, as well as some of the proposals made, merited more detailed consideration.

Despite all the shortcomings of this report, the Working Party hopes that the prime objective entrusted to it will have been attained. This is to draw the attention of the Community, its Member States and citizens to a particular problem in ACP-EEC relations, that of the need for greater solidarity with the ACP workers, students and trainees in the Community. The corollary to this need for greater solidarity, which implies the idea of greater fairness, is closer cooperation between the Community and its Member States, as well as between the Community and the ACP States, so that ACP citizens can be treated like genuine partners during their stay in Europe.

JOINT COMMITTEE

DECLARATION

(adopted in BORDEAUX (France) on 31 January 1979)

on

respect for and protection of the rights of citizens, students, trainees and migrant workers originating in the ACP countries and regularly resident in the countries which are signatories to the Convention

The Joint Committee,

- meeting in Bordeaux (France) from 29 January to 1 February 1979;
- having noted the interim report submitted by Mr Dewulf, rapporteur for the Joint Working Party;
- wishing to play its part in the current negotiations on the future Convention;
- aware of the importance of the problem raised by the presence in the Community of these nationals in relation to the respect for human rights in practice and the quality of human relations;
- laying particular stress on the important contribution to the economy of the Community made by migrant workers originating in the ACP countries;
- referring, in particular, to:
 - the United Nations' Convention of 1966 on the abolition of racial discrimination,
 - Conventions Nos. 97 and 143 of the I.L.O.;
 - the Resolution of 9 February 1976 of the Council of Ministers of the European Communities and the action programme of the Commission of the European Communities;
- referring also to the provisions of agreements or declarations associating the Community with third countries and concerning migrant workers;
- having regard to the privileges characterizing relations between the ACP States and the Community;

1. Reaffirms the need, in the context of the links between the ACP partners and the Community, to ensure respect for the rights and improvements in the living conditions of migrant workers as a matter of priority and to do the same for students and trainees originating in the ACP countries and residing in the Member States of the Community;
2. Requests that, in the negotiations on the future ACP-EEC Convention, the signatory parties should undertake to conclude, within a given time limit, an agreement on the protection of the rights and improvement of the living conditions of ACP migrant workers resident in the Member States of the Community;
3. Takes the view that, through this agreement, the partners in the future Convention should undertake to guarantee to ACP migrant workers regularly resident in the territory of a Member State of the Community, the benefit of the rights and measures defined in the interim report of the Joint Working Party; feels that this agreement should include a reciprocity clause;
4. Considers that the future agreement should apply to any worker originating in an ACP country and living and working in a Member State of the Community;
5. Instructs its Working Party to continue its task with a view to drawing up proposals for the improvement of the situation not only of workers, but also of students and trainees originating in the ACP countries, and ACP migrants resident in other ACP countries.

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JOINT DECLARATION

on workers who are nationals of one of the
Contracting Parties and
are residing legally in the territory of
a Member State or an ACP State

(Second ACP-EEC Lomé Convention - Annex XV)

1. Each Member State shall accord to workers who are nationals of an ACP State legally employed in its territory treatment free from any discrimination based on nationality, as regards working conditions and pay, in relation to its own nationals.

Each ACP State shall accord the same treatment to workers who are nationals of the Member States legally employed on its territory.

2. Workers who are nationals of an ACP State legally employed in the territory of a Member State and members of their families living with them shall, as regards social security benefits linked to employment, in that Member State enjoy treatment free from any discrimination based on nationality in relation to nationals of that Member State.

Each ACP State shall accord to workers who are nationals of Member States and legally employed in its territory, and to members of their families, treatment similar to that laid down in paragraph 1.

3. These provisions shall not affect any rights or obligations arising from bilateral agreements binding the ACP States and the Member States where those agreements provide for more favourable treatment for nationals of the ACP States or of the Member States.

4. The Parties hereto agree that the matters referred to in this Declaration shall be resolved satisfactorily and, if necessary, through bilateral negotiations with a view to concluding appropriate agreements.



