

ACP - EEC CONVENTION OF LOME

**ANNUAL REPORT
OF THE
ACP - EEC COUNCIL OF MINISTERS**

(1 April 1976 - 31 March 1977)

Resolution of the ACP - EEC Council of Ministers
on financial and technical co-operation

**Commission report to the ACP - EEC Council of Ministers
on the administration of financial and technical aid in 1976**

The Commission's report for 1976 has been deleted. It is available
as a separate document on AEI, <http://aei.pitt.edu/4177>.

SUVA 14 April 1977

ACP-EEC CONVENTION OF LOME

The Council

The Secretaries

Brussels, 23 May 1977

Mr Emilio COLOMBO
President of the European Parliament

Mr Philippe YACE
President of the National Assembly
of the Ivory Coast
Chairman of the ACP-EEC
Consultative Assembly

Case Postale 1601
LUXEMBOURG

Sirs,

We have been instructed by the ACP-EEC Council of Ministers at its second meeting held in Fiji on 13 and 14 April 1977, to forward to you, for the information of the ACP-EEC Consultative Assembly, the annual report provided for in Article 80(4) of the Lomé Convention and adopted by the Council at that meeting.

To make it easier to use and examine the report, it was agreed to include in the same publication:

- the Resolution of the ACP-EEC Council of Ministers on financial and technical cooperation which was also adopted by the ACP-EEC Council of Ministers at its meeting in Fiji on 14 April 1977;
- the report from the Commission to the ACP-EEC Council of Ministers on the administration of financial and technical cooperation in 1976, as provided for in Article 41 of the Convention.

The necessary number of copies of this publication will be made available to your services as soon as possible.

Please accept, Gentlemen, the assurance of our highest consideration.

KONATE

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I N T R O D U C T I O N

Article 74(5) of the Lomé Convention provides that the ACP-EEC Council of Ministers shall publish an annual report and such other information as it considers appropriate.

Furthermore, Article 80 of the Convention provides that each year the Council of Ministers shall submit a report on its activities to the ACP-EEC Consultative Assembly.

For the purposes of implementation of these Articles, the ACP-EEC Council of Ministers adopted at its second meeting in Suva (Fiji) on 13 and 14 April 1977 the present report which covers the period from 1 April 1976, the date on which the Lomé Convention entered into force in its entirety until 31 March 1977.

This report must be read in conjunction with the report on activities covering the period between the signing of the Convention on 28 February 1975 and its entry into force which was drawn up by the Interim Committee and submitted to the ACP-EEC Council of Ministers, which took note of the report at its first meeting held in Brussels on 14 and 15 July 1976. The Interim Committee's report was also submitted to the ACP-EEC Consultative Assembly and was examined by the Assembly's Joint Committee at its meeting in Lomé from 1 to 3 December 1976.

Moreover, as agreed by the Council of Ministers at its second meeting, the Resolution on financial and technical co-operation adopted by the Council of Ministers on that occasion has also been incorporated in the present report and forms an integral part of it. Furthermore, with the agreement of the Commission, the report on the administration of financial and technical co-operation in 1976, drawn up by the latter pursuant to Article 41, has, for the reader's convenience, also been annexed to the annual report of the Council of Ministers.

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The first year of application of the Lomé Convention has been characterized by the full entry into force of its provisions in all fields. The various Institutions provided for in the Convention and the bodies set up under it have begun to operate during this period. In particular, the ACP-EEC Council of Ministers held its inaugural meeting on 14 and 15 July 1976 in Brussels with Mr George A. KING, Minister for Trade and Consumer Protection of Guyana, President-in-Office of the ACP Council of Ministers, in the Chair. The Community delegation was led successively by Mr Max van der STOEL, Netherlands Minister for Foreign Affairs, President-in-Office of the Council of the European Communities and by Mr L.J. BRINKHORST, State Secretary, Netherlands Ministry for Foreign Affairs.

The meeting was prepared by the ACP-EEC Committee of Ambassadors, set up under Article 69 of the Convention, which succeeded the ACP-EEC Interim Committee. The new Committee held its first meeting on 9 July 1976.

The ACP-EEC Consultative Assembly, set up in accordance with Article 80 of the Lomé Convention, held its inaugural meeting from 1 to 3 June 1976 in Luxembourg. After being set up at the Consultative Assembly's first meeting, the Joint Committee created by the Assembly to carry out preparatory work and specific tasks decided on by the latter met in Lomé at the beginning of December 1976.

The discussions of the Council of Ministers and the Committee of Ambassadors were prepared for in the Committees and Subcommittees set up either under the Lomé Convention or by the rules of procedure of the ACP-EEC Committee of Ambassadors. Thus the Committee on Industrial Co-operation held three meetings, on 20 December 1976, 15 February 1977 and 28 March 1977. The Customs Co-operation Committee met on 9 July and 17 December 1976, and again on 22 March 1977.

The Subcommittee on Trade Co-operation met on 16 June 1976, 19 November 1976 and 22 March 1977, the Subcommittee on Sugar on 15 November and 10 December 1976 and again on 16 March 1977 and the Subcommittee on Financial and Technical Co-operation on 7 July 1976 and 16 March 1977.

As regards questions relating to the stabilization of export earnings, in addition to the meetings of the relevant ACP-EEC Subcommittee (24 February 1976 and 14 March 1977), close contact has been maintained between the Council and the Commission on the one hand and the ACP States on the other, in particular within the Committee of Ambassadors, and, as will be seen later, at the first meeting of the ACP-EEC Council of Ministers. Moreover, the first transfer operations, concerning 1975 exports (payment in 1976) and, no doubt, 1976 exports (payment in 1977), were carried out during the period under review, as will be seen from Chapter II below.

As far as the stabilization of export earnings is concerned, measures have been taken by the Community and the ACP States to enable transfers financed in the financial year 1976 to be carried out as soon as possible in 1977, and the Council of Ministers will be required, at its second meeting, to consider certain matters with regard to which the ACP States have made requests.

Finally, the Permanent Joint Group on Bananas met on 15 March 1977.

Alongside the Institutions provided for in the Convention, and as an exception, it was agreed at the first meeting of the Council of Ministers that certain topics on which the Council of Ministers had failed to reach a final decision would be further examined in the autumn of 1976 at a meeting between the President of the Council of ACP Ministers, accompanied by members of this Council and the President of the Council of the European Communities, with the appropriate member of the Commission. This meeting took place on 20 October 1976 in Brussels. It permitted the clarification of both parties' viewpoints on seven outstanding issues and even the provision of guidelines in the case of some of them, for subsequent Community decisions.

This report covers the various Titles of the Lomé Convention, examining successively their implementation. It shows that subject to certain problems, sometimes important but in any case small in number, on which discussions are continuing, implementation of the Lomé Convention has taken place smoothly and in mainly favourable conditions, bearing in mind the novelty of some provisions of the Convention, which provides for measures that have never been implemented hitherto in a joint framework established between industrialized and a large group of developing countries. Particularly worthy of mention among such provisions are those concerning industrial co-operation, the stabilization of export earnings and, to a large extent, the Protocol on sugar and the Protocol on rules of origin.

A number of problems arising in connection with the implementation of the Lomé Convention were further examined at the meeting of the ACP-EEC Committee of Ambassadors on 28 March 1977 as part of the preparations for the second meeting of the Council of Ministers. The Committee studied in particular the outcome of the work done by the Committees, Subcommittees and the Permanent Joint Group on Bananas in March and, on that basis, selected the items appearing on the provisional agenda for the ACP-EEC Council of Ministers' meeting in Fiji.

CHAPTER I

TRADE CO-OPERATION

Save for a certain number of specific problems that have been amply discussed by the relevant bodies set up under the Convention, the provisions on trade co-operation contained therein have been applied under conditions which take due account of the objectives of such co-operation as defined in Article 1 of the Convention.

Thus, products originating in the ACP States have been imported into the Community free of customs duties and charges having equivalent effect. Also, agricultural products originating in the ACP States and covered by the common agricultural policy have as a rule been imported into the Community under arrangements more favourable than the general arrangements applicable to the same products originating in third countries which benefit under the most-favoured-nation clause. Despite the somewhat extensive economic difficulties currently facing the Community in the present world situation, the Community has not applied the safeguard clause referred to in Article 10 of the Convention to the ACP States; as regards beef and veal originating in the ACP States, in respect of which the Community entered into commitments vis-à-vis ACP producer States when the Convention was signed, special provisions have been adopted whereby stipulated quantities can be sold on the Community market under normal conditions (see section 3 below).

At its first meeting, the Council of Ministers conducted a general discussion on the implementation of the Convention's trade provisions.

It welcomed the fact that the consultations between the Community and the ACP States, during the presentation of the Lomé Convention to the GATT and its examination by that body, had gone so smoothly. It also noted with satisfaction that the procedure for presenting the Lomé Convention to the GATT had culminated in the adoption, by the GATT Council, of a report which in practice recognized the compatibility of the Lomé Convention with the General Agreement.

In addition, at the general request of the ACP States, a number of specific items have been examined by the bodies set up under the Convention.

1. Implementation of Protocol No 7 to the Convention (rum)

Pursuant to Protocol No 7, the Community adopted successively two Council Regulations (Regulations Nos 3230/75 of 9 December 1975 and 1464/76 of 21 June 1976) on the opening, allocation and administration of a Community tariff quota for rum originating in the ACP States. These Regulations were adopted following consultation of the ACP States: the consultations concerning the tariff quota for the period 1 July 1976 - 30 June 1977 took place on 16 June 1976 within the Subcommittee on Trade Co-operation. The ACP States were of the view that the consultations were of limited value since they took place when the Community had completed its elaboration of the Regulation which the Community put into effect despite the outcome of the consultations.

At the first meeting of the Council of Ministers, the ACP States expressed the opinion that the rules adopted by the Community were not in line with Protocol No 7, and that this applied both to the volume of the overall quota and its allocation among the Member States. They asked the Community to provide them with detailed statistics on imports of rum, to explain to them the method used for fixing the Member States' quotas, to review, through consultations with the ACP States, the level and allocations of the overall tariff quota and, pending a solution acceptable to the Parties to the Convention, to maintain the tariff quota at the level fixed in the Council Regulation on ACP rum for the period 1 July 1975 - 30 June 1976.

The Community, for its part, pointed out that the rules in force generally ensured access to the market for all available rum originating in the ACP States. Moreover, the provisions of the Regulation on rum corresponded exactly to the terms of Protocol No 7, the tariff quota being calculated on the basis of the greatest quantity originating in the ACP States and actually imported into the Community during the preceding three years.

Lastly, it pointed out that actual imports of rum from the ACP States fell far short of the amounts fixed for the tariff quota, since in the period 1975-1976 only 96,241 hl (pure alcohol) had been imported into the Community out of a tariff quota of 168,000 hl (pure alcohol).

The Community subsequently forwarded the statistics on rum imports requested by the ACP States. At the meeting between the Presidents on 20 October 1976, the ACP States spoke of the difficulties encountered by some importers in certain Member States in obtaining import licences for the rum they wished to import from the ACP States. They also pointed out that there were at first sight fairly serious discrepancies between the export statistics of the ACP States and the import statistics communicated by the Community. The Commission then explained why it seemed unlikely that the difficulties encountered by ACP exporters were due to the operation of the Lomé Convention. The existence of national shares within the Community quota could not represent a barrier to ACP exports, since the free movement of rum between Member States in the same zone was not being hindered.

In the same connection, the Community forwarded to the ACP States, for information, the Commission proposals for a Regulation on the common organization of the market in ethyl alcohol of agricultural origin, which are still under examination within the Community bodies.

The ACP States expressed concern at these proposals in the Subcommittee on Trade Co-operation and the Committee of Ambassadors. They also said that they were encountering difficulties selling their rum on Community markets. The Community took note of these observations and gave preliminary replies, as the question was to be discussed in greater detail at the meeting of the Council of Ministers in Fiji.

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2. Implementation of Protocol No 6 to the Convention
(Bananas)

During the period of advance implementation of the trade provisions of the Lomé Convention the Community presented the ACP States, at the first meeting of the Permanent Joint Group on Bananas, with a communication concerning the application of Protocol No 6. The ACP States then indicated that they would forward to the Community a document setting out their interpretation of Protocol No 6 and the measures which, in their view, could be taken to clarify its application.

At the first meeting of the Council of Ministers the ACP States announced that the questions concerning implementation of Protocol No 6 were being examined by their Committee of Ambassadors. They nevertheless drew attention to certain specific problems which might compromise the efforts made by the Community and the ACP States in this area.

Inter alia, they expressed the fear that the arrangements for banana imports applicable in the United Kingdom might be jeopardized if, as a result of free movement of goods within the Community, dollar zone bananas could enter the United Kingdom and thus compete with ACP bananas. In addition, the ACP States pointed out that the issue of import licences for dollar zone bananas in Italy could damage exports of Somali bananas to the Italian market. Lastly, they stated the fact that in at least one Member State of the Community exports of ACP bananas were not in fact benefiting from a tariff preference over imports from the dollar zone.

Pending the reaction of the ACP States to the proposals regarding application of Protocol No 6, the Community stated that it was fully aware of the problems encountered in disposing of bananas on its market, but considered that the problems raised by the ACP States were principally due to the deterioration in trading conditions and the inadequacy of certain distribution networks.

Following a detailed examination of the specific difficulties referred to by the ACP States the Community stated its point of view on these various questions at the meeting between the Presidents. In its opinion, the drop in exports of Somali bananas to the Italian market was the result of a drop in total production in Somalia and expansion of exports to the Middle East rather than of difficulties encountered on the Italian market. The Italian Government had done all it could to guarantee Somali bananas a privileged position, in particular by introducing quotas for imports from third countries. Furthermore, the Community had offered Somalia aid to improve and rationalize its production, approved financial transfers for Somalia under the stabilization system and granted aid to improve the marketing of Somali bananas, all of which had helped exports to recover during 1976.

As regards Caribbean bananas, the Community pointed out that the United Kingdom accorded marked priority to bananas exported by its traditional ACP suppliers, even though the price of such bananas was often higher than that of bananas of the same quality imported from third countries.

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In the Community's opinion, additional information on the problems of ACP bananas was therefore necessary, and the Joint ACP-EEC Group on Bananas might perhaps be the appropriate forum for discussion of these problems; there the ACP States could give the Community precise information on specific cases in which it had been difficult or impossible to market ACP banana production.

The Commission, referring to the fact that the spirit of the Lomé Convention implied co-ordination of all existing measures and possibilities, welcomed the fact that Somalia had made use of the various measures open to it under the Convention. Secondly, it considered that the main problem facing exports of bananas by the ACP States was related to organization and promotion in the trade sector, and that the ACP exporting countries should co-operate among themselves to organize and promote their exports.

In the circumstances, the two parties considered that the Permanent Joint Group on Bananas should meet more frequently to consider the specific difficulties which could be encountered by the ACP States in this area.

This Working Party held a meeting on 15 March 1977 during which the ACP States presented their proposed Memorandum on the application of Protocol No 6. Without prejudging its position, the Community said that it would examine it with a view to the further meeting of the ACP-EEC Working Party due to be held in May. Moreover, Somalia explained the difficulties it was encountering in its exports on the Italian market.

3. Beef and veal

The ACP States frequently emphasized the special importance of beef and veal exports for certain of their members. They requested the Community to modify the Community licensing and import quota system in view of the problems it created for them, so as to take account of the beef and veal production cycle. In particular they would like arrangements to be consolidated, that the period of issue for licenses be extended from 6 to at least 12 months and the Community's decisions extending the validity of the relevant provisions to be taken 3 to 4 months before the end of each period of validity.

The Community pointed out that the situation in the beef and veal markets, characterized by abundant supply, was causing considerable concern not only to Community producers but to those of third countries which exported beef and veal and found themselves obliged to accept certain restrictions. However, the solution adopted for exports of beef and veal from the ACP States was a good example of co-operation between the ACP States and the Community. The ACP States had the prospect of having definite quantities open to them throughout the duration of the Convention. Turning to the Community levy, the conversion of most of it into a tax on exports levied by the ACP States was an exceptional measure, based on an unprecedented derogation from Community legislation on agricultural products, and as such a concrete example of an application of the Lomé Convention which was not limited to the letter of that instrument.

A further exchange of views on these problems took place when the two Presidents met. It was pointed out that the Community had already granted ACP States exporting beef and veal considerably more favourable arrangements (90% reduction on import charges, subject to the levy of an equivalent tax by the ACP exporting State) than would have resulted from mere application of the commitments entered into at the signing of the Lomé Convention; it was also pointed out, however, that the Council of the European Communities would probably agree to extend the period of validity of special arrangements until 1 January 1978, although hitherto they had only been adopted for successive periods of six months. The Council of the European Communities later adopted a Regulation extending until 1 January 1978 the period of validity of the arrangements, which entered into force on 1 January 1977.

The ACP States were also anxious about the possible effects of lifting, in 1977, the ban on imports into the Community of beef and veal coming from other third countries, and of the increase in levies which might result. They asked the Community to hold talks in good time (at the end of the first half of 1977) to decide on the arrangements to be applied after 1 January 1978.

The Community was unable to give any details as to the possibility of lifting the ban on imports; this would largely depend on the market situation. As to the possibility of an increase in the levy, the Commission assured the ACP States that they would be consulted if any difficulties arose. It also said that it would be pleased to begin talks with the ACP States mainly concerned towards the middle of 1977.

4. Problems relating to groundnut oil-cakes and aflatoxin

The ACP States drew attention to the harm likely to be caused to them by the implementation of the Directive of the Council of the European Communities of 17 December 1973 on fixing maximum levels for undesirable substances and products in animal feeding-stuffs. They requested that the implementation of the Directive be postponed pending the outcome of a technical examination by the experts. They pointed out that the United Kingdom had allowed a higher level of aflatoxin for all types of feedingstuffs without any danger to health. In the view of the ACP States there were no objective scientific reasons for the low levels of aflatoxin imposed by the Community and they requested a study of all aspects of the matter including sampling techniques by Community and ACP experts assisted by experts of FAO and WHO.

The Community referred to the responsibilities facing it in the field of health protection and to the standards already in force or in preparation, which were, moreover, part of the efforts undertaken on a world scale in this field. It also stated that it was prepared to assist the ACP States on a practical level in their efforts to reduce harmful substances in animal feedingstuffs.

The Community then confirmed that it was unable to relax the terms of rules which were intended to protect the health of Community nationals, and particularly children. It therefore proposed, after contacts with African organizations, that arrangements should be made for the EDF (regional projects) to finance a research programme on the monitoring of aflatoxin, without prejudice to the talks to be held between the Commission and the ACP States which produced groundnuts to seek any other measures which might help these States.

In the opinion of the Community, a solution to the possible problems of the ACP States might be sought by improving storage and marketing methods and intensifying sales promotion efforts by the ACP States. The Commission was prepared to continue discussing this question and to do all it could to help the ACP States along these lines.

Returning to the question in the Subcommittee on Trade Co-operation, the ACP States requested that ACP and EEC experts should meet to examine the maximum authorized level for aflatoxin and that the Community should suspend application of the provisions of its Directive on the matter. The Community said it did not intend to reconsider these regulations, but to assist the ACP States by various means to promote their exports of groundnut products. This item is included on the agenda of the Council of Ministers meeting in Fiji.

5. Problems which might arise from the compulsory incorporation of skimmed-milk powder in feedingstuffs

The ACP States pointed out that the measures adopted by the Community on the compulsory incorporation of a certain percentage of skimmed-milk powder, particularly in groundnut oil-cake (Regulation (EEC) No 563/76 of 15 March 1976), might considerably reduce the market for groundnut oil-cake in the Community. For that reason they asked the Community to annul these provisions.

At the meeting between the Presidents, the Community stated that compulsory incorporation did not seem to have resulted in reduced imports into the Community of feedingstuffs originating in the ACP States, that in any case the quantities to be incorporated were small and that, moreover, the measures in question could be discontinued in the next few months.

Shortly afterwards the Community decided to cancel the obligation of incorporating skimmed-milk powder in feedingstuffs.

6. Possible tax on vegetable oils imported into the Community

At the meeting of the Presidents, the ACP States expressed concern at the Commission proposal for a tax on vegetable oils produced in the ACP States and imported into the Community.

In reply it was stated that this Commission proposal, the purpose of which was to introduce a tax on vegetable oils produced in or imported into the Community, in addition to that applicable to animal fats, was under examination within the Community and that it was not possible at the moment to say whether this measure would enter into force and if so on what date. The Commission, however, gave an assurance that if such a measure were adopted the Community would consult with the ACP States to determine what effects it might have on their exports to the Community.

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7. Trade promotion

At the first meeting of the Council of Ministers the ACP States submitted a document on the difficulties which they were encountering with regard to certain trade promotion projects provided for in the Convention.

On that occasion, the Commission made a statement on the implementation of this Chapter of the Convention in 1976 and on the action which it had initiated regarding the projects to be undertaken during the period covered by the Convention.

At the meeting of the Subcommittee on Trade Co-operation on 22 March 1977, the ACP States returned to this question which is included on the agenda of the second meeting of the Council of Ministers, together with an item on the Commission proposal for a European Agency for Trade Co-operation with the developing countries.

8. Consultation procedure

The ACP-EEC Council of Ministers had a broad exchange of views on implementation by the ACP States, on the one hand, and the Community, on the other, of the provisions in the Convention relating to information and consultation procedures.

The ACP States declared themselves generally speaking satisfied with the existing trade rules, but they expressed concern at the way in which the Community acted in certain cases when applying these rules.

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The ACP States were of the view that consultations took place late and after the Commission had completed the elaboration of the rules and regulations which it expected the Community Council of Ministers to approve. The ACP were therefore not consulted but informed of the action to be taken.

They hoped that in the light of the experience gained, for example with regard to sugar, rum, generalized preferences and GATT multilateral trade negotiations, the Community would take more account of the ACP States' point of view.

The Community commented that even before the trade provisions of the Convention came into force it had made a serious and continuous effort to observe the letter and spirit of the Convention as far as information and consultation were concerned.

In accordance with procedures to which constant improvements had been made, the Community had forwarded a large number of draft texts to the ACP States, amongst the most important and significant of which were the Financial Regulation of the European Development Fund, the offer made by the Community regarding tropical products in the context of the GATT multilateral trade negotiations, the proposals relating to the generalized preferences scheme for 1977, the draft Agreements recently signed between the Community and the Mashreq countries or with Israel and the draft texts relating to the new accessions to the Lomé Convention.

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Quite apart from the exchanges of views which had taken place in the bodies set up under the Convention on some of these issues, one could not ignore the practical importance of meetings between experts from the ACP States and Commission experts, the presence in each ACP capital of a Commission Delegate and the existence of the joint Secretariat, which facilitated permanent contacts between the two parties.

The Community stressed that it had also taken steps to hold consultations with the ACP States at an international level, which seemed to have developed to the satisfaction of the ACP States: such had been the case for example, on the occasion of the FAO meeting on bananas in Abidjan, UNCTAD IV in Nairobi, a recent session in London of the International Sugar Council and of the bodies responsible for preparing for the negotiation of a new International Sugar Agreement, and during the examination of the Convention in GATT.

Mention could also be made, in the field of deep sea prospecting in the context of the United Nations Conference on the Law of the Sea, of the information seminar held in Brussels in February 1977 for ACP experts involved in that Conference.

The Community also mentioned that the flow of information from the Community to the ACP States was far in excess of that in the opposite direction. A number of ACP States had not yet fulfilled their obligation under Article 8 of the Convention to communicate their customs tariffs and any amendments thereto. Furthermore, several ACP States had introduced measures which affected imports from the Community covered by Article 7 of the Convention without giving the Community prior notification or warning.

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At the meeting of the Subcommittee on Trade Co-operation on 22 March 1977 the Community explained why it had requested that an item concerning the application of Articles 7, 8 and 11 of the Lomé Convention be included on the agenda for the meeting in Fiji.

9. Erosion of the advantages enjoyed by the ACP States under the Lomé Convention

At the first meeting of the Council of Ministers and on several subsequent occasions, the ACP States had voiced concern over the harm which their exports to the Community might suffer on account of the advantages which had been or might be granted by the Community to third countries under both bilateral agreements and multilateral arrangements (GATT multilateral trade negotiations, generalized system of preferences).

The Commission's proposals for the Community generalized system of preferences for 1977 were the subject of consultation, based on a memorandum drafted by the ACP States, at the meeting of the Subcommittee on Trade Co-operation on 19 November 1976. This formal consultation followed on contacts made by the Commission when it was drafting its proposals.

During these consultations the ACP States stated that they had made every effort to draw up a list of products in regard to which they had encountered difficulties on the Community market, including figures to show the erosion of the preferential arrangements, but had been unable to prepare fuller statistics.

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The ACP States said that they were not calling into question the generalized system of preferences, which was welcomed by all developing countries and which was an important element in Community policy, but that they hoped closer co-operation would be possible in 1977 so that the effects of the system on the ACP States' principal products could be ascertained. They felt that it would be difficult to conceive of the Community jeopardizing such exports, since it was helping to stabilize export earnings and, in accordance with the spirit of the Lomé Convention, the ACP States were making very considerable efforts to develop their processing industries. The example of blockboard and laminboard was analysed in this connection.

The ACP States are of the view that immeasurable damage may be done by the time it is conclusively established that damage has been caused to their trade. They therefore wish to enter into consultations with the Community with a view to setting up machinery for the joint and continuous monitoring of ACP exports to the Community selected by reference to their sensitivity, so that trends may be jointly determined and suitable measures if necessary be jointly determined.

On the topic of the generalized system of preferences it was pointed out that the statement made to the Interim Committee in November 1975 on behalf of the President of the Council of the Communities still held good. This statement said inter alia that the Community was prepared, if so requested by the ACP States, to undertake at any time a joint examination of any difficulties caused by application of the generalized preferences scheme which affected the marketing of their products. This examination would take account of the general situation with regard to the products in question, in order to enable the Community to take it into consideration when applying the generalized preferences scheme for the following year.

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In the Subcommittee on Trade Co-operation the ACP States reiterated their concern regarding the harm they might suffer because of the advantages granted to third countries. Moreover, the question of generalized preferences is, at their request, included on the agenda for the meeting of the Council of Ministers in Fiji.

10. Surplus agricultural products

The ACP States had referred, notably at the meeting between the two Presidents, to the possibility of obtaining supplies of surplus agricultural products from the Community on favourable terms.

The Community drew attention to its action in the food aid sector and stated its willingness, as far as the sale of surplus agricultural products was concerned, to examine practical proposals for further improving the procedures to facilitate the export of some products to the ACP States.

The ACP States announced their intention of setting out at a later date their views on a system for the preferential sale of commodity surpluses to the ACP States. This matter is on the agenda for the second meeting of the Council of Ministers.

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Lastly, in the field of the arrangements applicable to certain agricultural products originating in the ACP States, in the Subcommittee on Trade Co-operation the ACP States called for consultation on the arrangements to be adopted for certain agricultural products (especially tomatoes) which they had started exporting to the Community.

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11. Problems relating to origin

At the first meeting of the Council of Ministers the ACP States spoke of the difficulties which application of Protocol No 1 (on "originating products") to the Convention would cause the ACP States, and suggested that certain of the provisions in Annexes II and III to the Protocol (Lists A and B) be made less stringent; the Committee of Ambassadors was therefore instructed to examine any amendments the ACP States might propose in this connection.

There have also been several meetings of the Customs Co-operation Committee, which under Article 28 of Protocol No 1 is responsible for carrying out administrative co-operation with a view to the correct and uniform application of the Protocol and for carrying out any other task in the customs field which may be entrusted to it, notably in preparing the decisions of the Council of Ministers.

At these meetings, certain problems of a mainly technical nature were examined, particularly conditions governing the validity of EUR 1 certificates issued in landlocked countries, and the obligation to submit EUR 1 certificates for products which nevertheless originate in the Member States. The ACP States also requested derogations from the rules on origin in respect of certain textile products from Mauritius, and artificial fly for fishing manufactured in Malawi. The derogation in respect of Mauritius formed the subject of Decision No 3/76 of the Council of Ministers. The Council will receive a report on the other problems from the Customs Co-operation Committee at its second meeting, on the basis of which it might carry out the annual examination of the application of the provisions of the Protocol, provided for in Article 27 of Protocol No 1.

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The Customs Co-operation Committee last met on 22 March 1977, when further requests for derogation were submitted on behalf of Kenya and Mauritius. These requests are also mentioned in the report by the Customs Co-operation Committee.

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CHAPTER II

STABILIZATION OF EXPORT EARNINGS

1. First of all it should be borne in mind that the present report covers the first year of application of this entirely new system, whose originality has been emphasized by international public opinion.

Through contacts established by the Commission with the relevant authorities in the ACP States the Community ⁽¹⁾ and the ACP States have set up information machinery whereby all statistics concerning trade in the products covered by the STABEX system introduced under the Lomé Convention can be made available at very short notice.

In this way, only three months after the Convention entered into force, the Commission, which is responsible for managing the STABEX system, was able to announce the signing of agreements on transfers to be made to 17 ACP States for exports effected during the previous year. These payments totalled 72,137,562 EUA and concerned the following countries and products:

⁽¹⁾ See Council Regulation (EEC) No 158/76, 20.1.1976, (OJEC No L 18, 29.1.1976).

TRANSFERS FOR THE FINANCIAL YEAR 1975

Beneficiary ACP State	Product	Amount of transfer in EUA
BENIN ⁽¹⁾	Groundnuts	464,330
	Coffee	1,174,883
	Cotton	4,299,556
	Oilcakes	1,191,079
BURUNDI ⁽¹⁾	Cotton	956,602
	Raw hides and skins	520,053
CAMEROON	Wood in the rough	3,601,423
CENTRAL AFRICAN EMPIRE ⁽¹⁾	Coffee	353,108
PEOPLE'S REPUBLIC OF THE CONGO	Wood in the rough	7,361,677
IVORY COAST	Wood in the rough	15,000,000
ETHIOPIA ⁽¹⁾	Coffee	9,339,683
	Raw hides and skins	5,080,364
FIJI	Copra oil	615,140
GHANA	Wood in the rough	5,176,408
UPPER VOLTA ⁽¹⁾	Groundnuts	685,239
	Cotton	175,936
NIGER ⁽¹⁾	Groundnuts	5,441,294
	Raw hides and skins	507,747
SOMALIA ⁽¹⁾	Fresh bananas	1,296,907
	Raw hides and skins	635,238
SUDAN ⁽¹⁾	Raw hides and skins	1,658,579
TANZANIA ⁽¹⁾	Cotton	1,887,082
TOGO ⁽¹⁾	Coffee	2,680,324
UGANDA ⁽¹⁾	Cotton	1,748,932
SAMOA ⁽¹⁾	Cocoa	276,978
		72,137,562

⁽¹⁾ Least developed ACP States eligible for non-repayable transfers.

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Subsequently, the Republic of Mali received a transfer of 648,503 EUA for cotton, not carded or combed. Following this operation the total transfers for the 1975 financial year amount to 72,786,065 EUA.

2. The Community thinks that it will also very shortly be able to make the 1977 payments in respect of ACP exports in 1976. Scrutiny of the requests submitted by the ACP States is complete and the Commission already has all the facts necessary to adopt the transfer decisions.
3. At the first meeting of the Council of Ministers the ACP States, having welcomed the co-operation with the Community which had enabled the transfer agreements for the first year of application of the system to be signed as early as July 1976, submitted a document listing a number of imperfections in the system and proposing that the necessary amendments be made.

The proposed amendments concerned the choice of the reference period for calculating the financial transfers, the list of products covered by the system, the method of calculating the exchange rates applicable to the transfer agreements and extension of the scope of Article 17(4), which allows exports to destinations other than the Community to be taken into consideration.

- Choice of the reference period for calculation of financial transfers

In the light of the first year of application of the system, the ACP States have established that countries which have been the victims of natural disasters (drought, cyclones) had a relatively low reference level as compared with their average production. The 4-year period provided for in the Convention is thus incapable of reflecting a normal production situation for these States (countries of the Sahel, Ethiopia, Somalia, Fiji).

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Without changing the 4-year rule, the ACP States have requested that consideration be given to the possibility of choosing for these States which have suffered such disasters a period which would provide a more accurate picture of the normal production situation. In any event, according to the ACP spokesman, the 4-year period could not be applied to a country such as Guinea-Bissau where the economy was completely disrupted by the war of liberation being waged there.

- The list of products

The ACP spokesman began by stressing that the list could not be revised earlier than twelve months after the entry into force of the Convention, and that he was therefore very keen to state at the first meeting the concern of the ACP States, the economies of some of which were to a great extent dependent upon a number of products which did not appear on the present list.

These were: vanilla, cloves, gum arabic, dried and smoked fish, cattle, rubber, pyrethrum, phosphate and copper.

The list was not restrictive. Invoking firstly Article 16 of the Lomé Convention which aims to ensure the stability, profitability and steady growth of the economies of the ACP States by guaranteeing the stabilization of earnings from exports of certain products on which their economies are dependent and which are affected by fluctuations in price and/or quantity, and secondly Article 17(3) under which the Council of Ministers may decide whether to include certain products which do not appear on the list in paragraph 1 but upon which the economies of one or more ACP States depend to a considerable extent, and are subject to sharp fluctuations, the ACP requested that the meeting of the Council of Ministers to take place in Fiji should decide upon the revision of the list of products covered by the system.

- Method of calculating the rate of exchange applicable to transfer agreements

The ACP States wished to have details of the method used by the Commission in carrying out transfers so that they could study this and make comments or counter-proposals, because when applied to at least one country, the Central African Empire, use of the method had produced an illogical result.

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- Extension of the scope of Article 17(4)

In view of the arrival of new ACP Member States and of the requests from others, it was requested that Article 17(4) be applied to ACP States the economies of which were dependent to a considerable extent upon a few products exported to destinations other than the Community. These States were Samoa and Tonga for bananas exported to Australia, and Chad for cotton exported to Nigeria.

The ACP States suggested that the Subcommittee on the Stabilization of Export Earnings be entrusted with examination of these questions, with the proviso that its conclusions be submitted to the Council of Ministers at the second meeting.

It was noted that rapid implementation of the system, thanks to co-operation between the relevant administrative departments of the ACP States and the Community, had enabled the operations for the 1975 financial year to be carried out within a satisfactory period of time. As regard the requests made by the ACP States, the Community advised the Council of Ministers against extending the list of products as requested by the ACP States. Moreover, the Community pointed out that the provisions of the Lomé Convention itself ruled out any amendment of the list of products covered by the STABEX system laid down therein until twelve months from the date of entry into force of the Convention. Furthermore, such a step might jeopardize the compromise on the list which had with difficulty been reached during negotiations and, particularly in the case of mineral products, the problem raised by such extension might go far beyond the possibilities offered by the Convention. On the subject of the exchange rates applicable to transfer agreements, the Commission stated that it was convinced that reference to an international money of account was on the whole the fairest solution even if, at times, it might be less favourable

to certain national currencies and more favourable to others. Lastly, it was stated that the ACP States' requests for derogations concerning exports "irrespective of destination" would be examined attentively.

The Council of Ministers is required to examine the request submitted by the ACP States at its second meeting.

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CHAPTER III

IMPLEMENTATION OF PROTOCOL NO 3 TO THE CONVENTION (SUGAR)

In Protocol No 3 to the Lomé Convention the Community undertakes to purchase and import at guaranteed prices specific quantities of sugar originating in the ACP States, which these States undertake to deliver to it. The guaranteed prices for a first period ending on 30 June 1976 were fixed in the Protocol itself. Thereafter, the guaranteed price (CIF European ports) "shall be negotiated annually, within the price range obtaining in the Community, taking into account all relevant economic factors". It must be decided at the latest by 1 May immediately preceding the delivery period to which it will apply.

The first negotiations on the guaranteed price were completed in Brussels at the beginning of June 1976. Although substantial differences of opinion between delegations emerged, it was possible at the close of these negotiations to fix the price for ACP sugar for the marketing year beginning on 1 July 1976. The ACP States declared that they would, before the opening of the negotiations on the guaranteed price for 1977/1978, seek an authorized interpretation of Article 5(4) of Protocol No 3, which would be binding for the contracting parties.

Following a request from the ACP States the Community agreed that this guaranteed price would apply to contracts executed as from 1 April that year.

These negotiations were subsequently examined in detail at the first meeting of the ACP - EEC Council of Ministers in July 1976.

As regards the date on which the guaranteed price for the 1976/1977 marketing year should become applicable, the ACP States considered that the Community departed from both the letter and the spirit of the Convention by refusing their request that the price become effective as from 1 January 1976, to compensate for the losses incurred by the drop in the price of sugar. As for the level of the guaranteed price to be negotiated annually, the ACP States recalled that Article 5(4) of Protocol No 3 stipulates that this price must be "within the price range obtaining in the Community". The Community having fixed the floor price at 28.15 UA/kg for the 1976/1977 marketing year, the guaranteed price provided for in Protocol No 3 ought to have been fixed at at least that figure.

Since the Community did not accept this point of view, the ACP States again called for an authoritative interpretation of the relevant provisions of the Convention before the guaranteed price for the following marketing year was fixed.

For its part, the Community justified the measures adopted on the various points raised by the ACP States by pointing out that it was unprecedented for States not members of the Community to be able to benefit from Community agricultural regulations and that it was therefore normal that the States so benefiting should also share the costs involved.

The question of sugar was one of the fundamental points discussed at the meeting between the Presidents. At that meeting the Community recognized the importance and the vital role of sugar for the economy of a number of ACP States. It stated that, in a spirit of understanding for the concerns of its partners and having made a full examination of all the data concerned, it could assure the ACP States that it was determined to tackle the provisions of the Sugar Protocol from a new angle. Under this new approach, the

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comparison would be made at the level of the guaranteed price applicable to raw cane sugar and the intervention price for raw cane sugar, whereas during negotiations on the guaranteed price for the 1976/1977 marketing year, the ACP guaranteed price had been derived from the Community price for white sugar. This new approach should permit discussion of the guaranteed price for the 1977/1978 marketing year to be held in a different atmosphere and the problem of the storage levy to be tackled in the same spirit.

The ACP States stated that they were aware that the Community wished to arrive at a fair price. However, a number of particular factors concerning ACP sugar had to be borne in mind; for example, the fact that the price fixed for ACP sugar was based on a price for sugar delivered to a European port and that it was necessary to take account of all relevant economic factors in the annual price negotiations. While stating their interest in the proposal, the ACP States reserved their position until they were in possession of the details. In this connection, they felt that they could more easily form an opinion if, in addition to a written version of its proposal the Community supplied them with a practical example, with figures, showing how the new method could be applied.

At the close of the discussion, it was noted that negotiations on the guaranteed price for the 1977/1978 marketing year should be expedited and concluded as early as possible in 1977 and it was agreed that, alongside these negotiations, these questions could be examined by the ACP-EEC authorities.

Subsequently, the Community forwarded a note in which it clarified and illustrated its intentions regarding the new method for establishing the basis on which the guaranteed price for ACP sugar could henceforth be determined. The idea behind this new method was that the price provisions of the Protocol should be applied in such a way that the revenue guaranteed to the ACP States under the Protocol for their deliveries of raw sugar to the Community was comparable to the net revenue guaranteed to producers of raw beet sugar in the Community. The ACP States having raised a series of questions on the fixing of the guaranteed price for sugar under the new method in the Subcommittee on Sugar, the Community replied to these various questions in a letter dated 21 January 1977.

After examining the problems of sugar at their meeting in Barbados in January 1977, the ACP States informed the Community that they had noted that the replies and information supplied did not reflect the quite definite assurances made by the EEC spokesman at the Presidents' meeting in October 1976. They felt unable to accept the arithmetical formula proposed and reserved their position on the entire problem of fixing the guaranteed price. They trusted that a satisfactory solution could be found to this problem before the opening of negotiations to fix the price for the 1977/1978 marketing year.

In addition, the ACP-EEC Subcommittee on Sugar discussed the problems connected with the application of Article 7 of Protocol No 3, and more specifically the provisions on force majeure. This Article stipulates that if an ACP State fails to deliver its agreed quantity of sugar in full for reasons of force majeure, it is allowed an additional period for delivery. If, however, failure to deliver

cannot be ascribed to force majeure, the quantities agreed in the Protocol are reduced by the undelivered quantity. In the light of their legal analysis of Article 7 of Protocol No 3, the ACP States asked the Community not to apply the decisions taken by the Commission concerning reduction of the agreed quantities for the People's Republic of the Congo and Uganda and, if it did not accept their arguments, to inform them of its point of view on the legal basis for these decisions. The Community complied with this request by giving the ACP States, in writing, details of the considerations, mainly legal in nature, on which the decisions taken were based.

On further examination of the provisions of Article 7 of the Sugar Protocol by the ACP-EEC Subcommittee on Sugar, it emerged that basic differences still existed between the two parties as to how "force majeure" decisions should be reached. The ACP are still disputing the Commission's claim that it is empowered to decide unilaterally what constitutes or not "force majeure". They hold the view that it is only after the contracting parties have jointly agreed on the principles to be applied for the determination of "force majeure" situations that decisions can be taken on individual countries such as the People's Republic of the Congo, Uganda, Kenya and Surinam.

The ACP States and the Community finally agreed that when a new international Sugar Agreement was being negotiated (April - May 1977), the consultations which they had already held during the preparatory work to these negotiations would be continued.

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CHAPTER IV

INDUSTRIAL CO-OPERATION

1. Title III (on industrial co-operation) of the Lomé Convention is based on the recognition by the Community and the ACP States of the pressing need for the industrial development of the latter. In this spirit, the Community and the ACP States are agreed to take all measures necessary to achieve effective industrial co-operation. For the purpose of such co-operation they together laid down a number of aims and a number of means of action.

2. During the period covered by this report the provisions required to facilitate the implementation of the Convention in this field were adopted on proposals from the Committee of Ambassadors. At its first meeting the Council of Ministers began by adopting Decision No 1/76 of 14 July 1976 on the composition and rules of operation of the Committee on Industrial Co-operation set up under Article 35 of the Convention. Also on a proposal from the Committee of Ambassadors it laid down, in Decision No 2/76 of 14 July 1976, the Statutes and rules of operation of the Centre for Industrial Development.

This Centre, which enjoys in each of the States which are parties to the Convention the most extensive legal capacity accorded to legal persons, is required to perform the functions assigned to it under Article 36 of the Convention. It is headed by a Director appointed by the Committee on Industrial Co-operation, which is responsible for guiding, supervising and controlling the activities of the Centre. The Statutes of the Centre also stipulate that the Director shall be assisted by a Deputy Director and advised by an

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Advisory Council composed of 12 members with industrial experience, chosen on an individual basis on the grounds of their qualifications and experience from nationals of the States which are parties to the Convention. Other provisions of the Centre's Statutes refer in particular to the work programme and annual budget of the Centre and to the general principles relating to the staff thereof.

3. Following thorough examination of the industrial co-operation problems by the Community and the ACP States the Committee on Industrial Co-operation held its first meeting in Brussels on 20 December 1976 under the chairmanship of Mr VAN OORSCHOT (Netherlands), Minister Plenipotentiary, the spokesman for the ACP States' delegation being H.E. Mr G.O. IJEWERE (Ambassador of Nigeria). The Committee firstly appointed Mr Roger THEISEN Director of the Centre on a proposal from the Community and Mr Isaac Adedayo AKINRELE Deputy Director on a proposal from the ACP States. It also authorized the Director of the Centre to engage the necessary initial support staff. The Committee also held a preliminary exchange of views on the future activities of the Centre.

4. At its 2nd meeting on 15 February 1977 the Committee on Industrial Co-operation adopted its Rules of Procedure, subject to finalization of the text.

It also examined a number of steps which should be taken in the near future with regard to the staff of the Centre for Industrial Development. It accordingly examined the draft conditions of employment of the staff, which would have to be supplemented at a later date as regards some issues requiring further study because of their links with States' laws in these areas (privileges and immunities, taxation, social security and

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definition of the jurisdiction applicable to the staff of the Centre). Furthermore, the Committee adopted a Decision authorizing the Director to engage the further staff necessary for the initial setting up of the Centre so that the latter could carry out all essential work without delay.

At that 2nd meeting the Committee on Industrial Co-operation also adopted the Financial Regulation of the Centre for Industrial Development on the basis of a draft forwarded by the Community which the Committee amended slightly. This Regulation, which consists chiefly of provisions concerning the drawing up and implementation of the budget of the Centre, constitutes an efficient and flexible system enabling the Centre to become fully operational without delay.

The Committee on Industrial Co-operation also discussed a number of problems to which it agreed to return. One of these was the question of the appointment of the members of the Advisory Council. In this context the Community submitted a list of eight candidates, whose appointment met with the approval of the ACP States, who said they would shortly be submitting the list of the four candidates which it fell to them to nominate for the Advisory Council. The ACP States also requested that the number of members of the Advisory Council be increased from 12 to 14 so that two extra members to be nominated by the ACP States could be appointed. The Community was favourably disposed towards this request, but pointed out that such an increase would necessitate the formal amendment of Decision No 2/76; this could be decided by the Council of Ministers, for example at its second meeting.

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The Committee on Industrial Co-operation also received a Community proposal concerning the consultation of economic and social sectors provided for in Article 10 of Decision No 1/76 of the Council of Ministers. The Committee has not yet been able to adopt a position on that proposal.

5. As regards the activities of the Centre, it became apparent during the first two meetings of the Committee on Industrial Co-operation that, as the Director of the Centre said, it was essential to study in detail the fresh prospects the Lomé Convention offered in this area. The Director of the Centre submitted to the Committee on Industrial Co-operation a document setting out initial guidelines which he felt the Centre should follow. It was, however, pointed out that not all members of the Advisory Council had as yet been appointed and that the work programme and draft budget should not be approved by the Committee until the Advisory Council had expressed its views. For this reason further discussion is taking place in the Committee on Industrial Co-operation.

The ACP States immediately stated that they attached considerable importance to the Centre becoming operational soon and felt that in general the guidelines proposed by the Director of the Centre were acceptable. It was agreed that additional information would be supplied by the Director, especially regarding the financial aspects of those proposals, although these would, in any event, have to form the subject of financing proposals in accordance with the procedures of the European Development Fund. It also became clear in this context that the collaboration of all those most closely concerned by industrial co-operation would be indispensable; the support of industrial and financial circles, workers, technicians and business people would in particular be necessary.

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Furthermore, while the Lomé Convention constituted a whole range of integrated means for co-operation comprising several principal aspects, it was clear that the extent to which each ACP State could benefit from the various provisions of the Convention would vary according to economic and social policies and events. The ACP States stressed that, while they all attached great importance to industrial co-operation, for some of their number this was the prime aspect of the Lomé Convention.

The Director of the Centre took the view that it was already clear that the programme should in any event make it possible for a number of essential objectives to be attained in the field of industrial co-operation. It should for instance make it possible:

- to establish a new joint co-operation model founded on a true industrial partnership between the ACP States and the Member States;
- to exploit the opportunities offered by the opening up of the European market to ACP industrial products;
- to assist ACP States to gain access to European technology and technical information for the purpose of achieving their industrial development objectives;
- to identify sources capable of providing financial assistance on acceptable terms for the development of industrial projects in the ACP States and thus promote the transfer and adaption of technology and training;

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- to offer mediation and advisory services within the framework of the technological choices open to the ACP States;
- to promote all other activities necessary to achieve the goals of industrial co-operation under the Lomé Convention.

In this way the industrial co-operation set up under the Lomé Convention could in practice effectively result in achievements deemed desirable by both the Community and the ACP States and thus fulfil the objectives which the two parties set themselves under that co-operation.

6. At its 3rd meeting on 21 March 1977, the Committee on Industrial Co-operation finally adopted its Rules of Procedure and resumed its examination of the draft Conditions of Employment of the Staff of the Centre submitted by the Community. Since certain amendments to these Conditions of Employment proposed by the ACP States still required further examination, the Committee postponed the final adoption of this text until its next meeting, to be held during the second half of May 1977. Also in this connection, the Committee agreed to a draft Decision of the Council of Ministers on the privileges and immunities of the Staff of the Centre, and more specifically social security, taxation and jurisdiction. It forwarded this text to the Committee of Ambassadors with a view to its adoption by the Council of Ministers at its second meeting.

The Committee emphasized the great importance of the work of the Advisory Council of the Centre for the Centre's future activities, and agreed that it was advisable, pending the appointment of certain members - which should take place shortly - to

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convene very soon a meeting of this Council, composed of those members already appointed and of representatives nominated provisionally. At its first meeting, the Advisory Council would first of all be required to decide on the Centre's activities as envisaged by its Director. In this connection, the Committee on Industrial Co-operation hoped that it would receive as soon as possible the draft annual programme of the Centre and a preliminary draft budget, together with the opinion of the Advisory Council.

The Committee is continuing its examination of the measures to be taken for consulting economic and social sectors as provided for in Article 10 of Decision 1/76 of the ACP-EEC Council of Ministers.

Finally, the Committee agreed to lay before the Committee of Ambassadors the request by the ACP States that the number of seats on the Committee on Industrial Co-operation be increased from 15 to 17.

CHAPTER V

FINANCIAL AND TECHNICAL CO-OPERATION

Unlike most other provisions of the Lomé Convention, there could be no advance implementation of Title IV (of the Convention) and its corollary, Protocol No 2 on financial and technical co-operation, during the interim period by reason of the financial commitments which they contain, the latter being subject to prior parliamentary authorization. This did not mean, however, that the Community and the ACP States remained inactive during that period. In the context of the interim measures adopted by the Council of the European Communities, the Commission and the European Investment Bank carried out the first programming missions in the ACP States and appraised the first projects and programmes submitted by the ACP States or other recipients of aid.

Alongside this work the Community proceeded, at internal level, with the setting up of the bodies responsible for assisting the Commission and the Bank in administering the aid, e.g. the EDF Committee and the Article 22 Committee set up under the auspices of the EIB by the 1975 Internal Financing Agreement, and introduced rules governing the execution of the projects and programmes, in particular the Financial Regulation applicable to the new EDF (1975).

During this period the Commission in agreement with the ACP States appointed its Delegates and the Paying Agents of the EDF, who were assigned important tasks in the ACP States with regard to the administration of the aid. Each ACP State also appointed the National Authorizing Officers who represent the national authorities in all operations relating to projects financed by the Fund.

All the aid management measures taken since the Lomé Convention entered into force should be examined by the ACP-EEC Council of Ministers with particular reference to the detailed report submitted to it by the Commission in accordance with Article 41 of the Convention.

Article 41 stipulates that the ACP-EEC Council of Ministers shall examine at least once a year whether the objectives of the financial and technical co-operation provided for in the Lomé Convention are being attained and shall also examine the general problems resulting from the implementation of financial and technical co-operation. It shall take stock, on the basis of information gathered both by the Community and the ACP States, of action undertaken in this context. This stocktaking shall also cover regional co-operation and measures in favour of the least developed ACP States.

As regards the Community, the Commission shall submit to the ACP-EEC Council of Ministers an annual report, drawn up in collaboration with the European Investment Bank, on the management of the aid. This report must feature the position as to the commitment, implementation and utilization of the aid, broken down by type of financing and by recipient State.

For their part the ACP States shall submit to the Council of Ministers all information or proposals on the matter. Lastly, it is stipulated that the work on the annual stocktaking of financial co-operation shall be prepared by the experts of the Community and of the ACP States.

It is, moreover, on the basis of such information that the Council of Ministers has to define the policy and guidelines of financial and technical co-operation and formulate resolutions on the measures to be taken in order to ensure that the objectives of such co-operation are attained.

The Commission very recently forwarded to the Council of Ministers the report on the management of financial and technical co-operation in 1976. The reader would be well advised to refer to the report to obtain details of the various financial and technical co-operation measures and decisions taken since the entry into force of the Lomé Convention.

Concurrently with the work carried out by the Commission, the EIB and the ACP States on the management of the aid proper, the joint institutions have been engaged in formulating the general policy and the guidelines for it. Accordingly, at the first meeting of the ACP-EEC Council of Ministers on 14 and 15 July 1976, the Council noted a verbal report by the Commission and EIB representatives on progress in the field of financial and technical co-operation.

The Council was not able to adopt the Decision provided for in Article 60 of the Lomé Convention on the fiscal and customs arrangements applicable in the ACP States to contracts financed by the Community. For this reason it delegated to the ACP-EEC Committee of Ambassadors the powers necessary to adopt that Decision.

It will be recalled that until the Decision provided for in Article 60 of the Convention takes effect, the arrangements in force in the States signatory to the Yaoundé Convention will continue to apply, and other States will apply to the Community the "arrangements applicable to the most-favoured international organizations".

In a statement entered in the minutes of the negotiations, the Community and the ACP States agreed that the text submitted by the ACP States on the fiscal and customs arrangements for contracts financed by the Community would form the basic working document for the establishment of such arrangements by the Council of Ministers.

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On 14 May 1976 the ACP States sent the Community a proposal for a Decision drawn up on the basis of the text they had submitted during the negotiations.

For its part, the Community sent the ACP States a draft Decision on the matter on 23 June 1976.

On 26 January 1977 the Community forwarded to the ACP States a new draft Decision based on a fresh Commission proposal.

At its second meeting on 13 and 14 April 1977 in Fiji, the ACP-EEC Council of Ministers is to review the situation.

Since the Council of Ministers also reasserted the importance it attaches to active application of the provisions of the Convention relating to regional and interregional co-operation, the ACP States and the Community exchanged communications on the implementation of the provisions of the Convention. They were thus able to approve the procedures for implementing regional and interregional co-operation and the Community also proposed that work should continue on defining a true regional development policy.

At the beginning of 1977 the Community proposed to the ACP a first series of regional projects. The members of the ACP-EEC Council of Ministers will have to review the situation in this area also.

The Community replied in the same spirit to the ACP States' request that details be given regarding the manner in which the Community intended to implement the provisions of the Convention relating to the special measures in favour of the least developed ACP States and to microprojects. Work will have to continue in these two fields to reach a common definition of the guidelines to be followed in these two sectors.

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The Council of Ministers will also be called upon to take note of current progress on the rules to be laid down concerning the award and execution of public contracts financed by the EDF.

The Community is actively engaged in the preparation of the draft general conditions for public works, supply and service contracts financed by the EDF in the ACP States and of the general conditions of payment for technical co-operation contracts.

The Community has not yet been able to submit to the ACP-EEC Council of Ministers draft rules on the settlement by arbitration of any dispute arising between the authorities of an ACP State and a contractor or supplier in the course of execution of a contract financed by the EDF.

These two legal texts, which are provided for in Articles 22 and 23 respectively of Protocol No 2, were to be adopted not later than the second meeting of the Council of Ministers. However, since discussions on the subject have proved difficult, complex and delicate, work has not yet been completed within the Community, and the Council of Ministers will not be in a position to adopt the relevant decisions at this meeting. It could on the other hand give the impetus necessary for the active continuation of work which is legally and technically extremely complex.

It should, however, be remembered that transitional arrangements have been provided for in these two sectors in joint declarations (Annexes IX and X to the Lomé Convention).

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Despite the fact that, owing to constitutional and institutional provisions, the Chapter relating to financial and technical aid in the Lomé Convention entered into force a considerable time after the other provisions of the Lomé Convention, events have confirmed the willingness of the parties to the Convention to introduce rapidly an efficient tool for development aid. The desire that the ACP States' participation in administering the aid should increase, the prime place given to the joint programming of the aid and goodwill on both sides have enabled activities in this sector to get off to a good start and give grounds for hoping that the ACP States will in future benefit under optimal conditions from the aid which the Community has undertaken to give them. As at 25 March 1977, which is the end of the first year's application of the Lomé Convention, 566 million European units of account have been committed under the EDF and 74.4 European units of account under the resources managed by the EIB.

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CHAPTER VI

THE INSTITUTIONS OF THE CONVENTION

At its first meeting the Council of Ministers adopted its Rules of Procedure and those of the Committee of Ambassadors. Thus these Institutions had at their disposal, from their very first meetings, a procedure enabling them to begin work straight away on the problems of substance arising in implementing the Lomé Convention.

The Council of Ministers also noted the appointment by the ACP States and the Community respectively of Mr Tieoule KONATE and Mr Gonzague LESORT as Secretaries to the ACP-EEC Council of Ministers.

Lastly the Council of Ministers agreed to admit as observers to the meetings of the Council of Ministers and the Committee of Ambassadors the six States which had, at 14 July 1976, applied to accede to the Lomé Convention. By virtue of depositing their respective acts of accession in accordance with Article 89 of the Convention, three of those States, namely Surinam, the Comoro State and Seychelles have in the meantime become party to the Convention as full members.

The Council of Ministers also accepted as observers, pursuant to Annex V to the Final Act of the Convention, organizations composed solely of ACP States and dealing specifically with economic matters, namely: the East African Community, the Caribbean Community, the Common African and Mauritian Organization (OCAM), the West African Economic Community (CEAO) and the Central African Customs and Economic Union (UDEAC).

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Finally, since application of the Lomé Convention could raise multifarious problems which would have to be resolved in the interval between two ordinary annual meetings of the Council of Ministers, and without ruling out the possibility of it having to hold extraordinary meetings, the Council decided that it was nevertheless necessary for the sake of simplicity and speed to delegate certain of its powers to the Committee of Ambassadors in accordance with Article 75. The Council of Ministers therefore adopted Decision No 11/76 of 15 July 1976, which lists the powers delegated generally to the Committee of Ambassadors and specifies that at the request of the Community or of the ACP States any item concerning an issue in respect of which power was delegated may be struck off the provisional agenda of the Committee of Ambassadors and included on the agenda of the Council of Ministers.

During the period covered by this report the Committee of Ambassadors has not had occasion to make use of this delegation of powers ⁽¹⁾.

The Council of Ministers also confirmed the provisions adopted during the interim period as regards relations with the ACP-EEC Consultative Assembly and the Joint Committee set up by that Assembly. Thus, at its first meeting it took note of the Resolution adopted by the Consultative Assembly at its inaugural meeting in Luxembourg from 1 to 3 June 1976, with particular reference to the items concerning the Council of Ministers.

⁽¹⁾ By Decision No 10/76 of 15 July 1976, the Council of Ministers also delegated to the Committee of Ambassadors the authority to adopt, in accordance with Article 60 of the Convention, the decision on the fiscal and customs arrangements applicable in the ACP States to contracts financed by the Community.

It instructed the Committee of Ambassadors:

- to make a detailed examination of this Resolution and to propose what action should be taken on it;
- to draw up replies to the written or oral questions which might be put by the Consultative Assembly to the Council of Ministers, on the understanding that the replies would be given in the name of the Council of Ministers itself.

Finally, taking note of the report on the activities of the Interim Committee, it instructed the Secretaries to forward this report to the ACP-EEC Consultative Assembly for information.

At its second meeting the Council of Ministers will receive a report from the Committee of Ambassadors on the Luxembourg Resolution also taking account of the final declaration made by the ACP-EEC Joint Committee at its meeting in Lomé (from 1 to 3 December 1976), at which the President of the Council of the Community and the President of the Council of Ministers should also agree to forward the report on its activities to the Consultative Assembly as provided for in Article 80(4) of the Convention. It could also have an exchange of views on the preparation of the position it should adopt at the 2nd meeting of the ACP-EEC Consultative Assembly to be held in Luxembourg in June 1977.

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In its statement of June 1976 the Consultative Assembly, after instructing its Joint Committee to make proposals to it concerning consultation of the economic and social sectors on the basis of Article 80(5) of the Convention, invited the Council of Ministers to apply Article 74(5) of the Convention which stipulates that the Council of Ministers may make all the arrangements that are appropriate for ensuring the maintenance of effective contacts, consultations and co-operation between the economic and social sectors of the Member States and of the ACP States.

In view of its brief from the Council of Ministers, the Committee of Ambassadors discussed this matter at its meeting on 28 March 1977 and will report back to the second meeting of the Council of Ministers.

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CHAPTER VII

ACCESSIONS TO THE LOME CONVENTION

Articles 89 and 90 of the Convention provide for the possibility of accession to the Convention of, respectively, countries or territories to which Part four of the Treaty applies and which become independent, and States whose economic structure and production are comparable with those of the ACP States. These Articles also define the procedure and conditions for such accessions.

The ACP-EEC Council of Ministers took note of the requests from the States concerned, welcoming these prospects for extending the Convention, and adopted at its first meeting:

- pursuant to Article 89 of the Convention, Decisions Nos 4/76, 5/76 and 6/76 approving the accession to the Lomé Convention of the Republic of Surinam, the Republic of Seychelles and the Comoro State, respectively,
- pursuant to Article 90 of the Convention, Decisions Nos 7/76, 8/76 and 9/76 approving the request for accession to the Convention of the Democratic Republic of Sao Tomé and Príncipe, Papua New Guinea and the Republic of Cape Verde, respectively.

Having deposited their instruments of accession with the General Secretariat of the Council of the European Communities, the Republic of Surinam, the Republic of Seychelles and the Comoro State acceded to the Convention on 16 July, 27 August and 13 September 1976, respectively. These accessions entailed

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certain changes in the Community rules applicable both to the ACP States and to the overseas countries and territories. Prior to their adoption by the Council of the Communities the texts concerning these changes were sent to the ACP States under cover of a letter dated 11 February 1977.

At the same time, the ACP States were informed of the outcome of the Community's negotiations with the Democratic Republic of Sao Tomé and Príncipe, the Republic of Cape Verde and Papua New Guinea, which had resulted in three draft Accession Agreements and three Final Acts, the texts of which were communicated to the ACP States. The Community stated that, since the procedures for ratifying the Accession Agreements would take a certain amount of time, it intended to propose that exchanges of letters be signed at the same time as the Agreements, to provide for the advance implementation of the provisions relating to trade.

On 28 March last Mr Peter Dickson DONIGI, Chargé d'Affaires of Papua New Guinea, H.E. Mr Jose BRITO, State Secretary for Co-operation and Planning of Cape Verde, and H.E. Mr Leonel Mario DALVA, Minister for foreign Affairs of Sao Tomé and Príncipe, signed three Agreements with the Community on the accession of their countries to the Lomé Convention.

These Agreements, which were drawn up in accordance with Article 90 of the said Convention, will have to be submitted for ratification in the Community and in the countries concerned. As soon as they enter into force the three States will be able to benefit from all the provisions of the Lomé Convention under the

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conditions laid down in those Agreements. However, the Community intended to let those States enjoy the benefits of the Lomé Convention as soon as possible and interim arrangements have therefore been adopted which, in accordance with the Community's action before the Lomé Convention entered into force, provide for the advance implementation of some provisions (notably on trade) of the Lomé Convention in those countries.

The total number of ACP countries signatory to the Lomé Convention will thus rise to 52.

Lastly, the Community will inform the ACP States, immediately after signature of the Internal Agreement amending the Internal Agreement on the financing and administration of Community aid signed on 11 July 1975, of the amendments made to take account of Article 89(2) and the fourth paragraph of Article 90 of the Convention, under which new accessions shall not adversely affect the advantages accruing to the ACP States signatory to the Convention under the provisions on financial and technical co-operation and the stabilization of export earnings.

As a consequence of the new accessions the Council of Ministers will be called upon to adopt a position at its second meeting, in the context of the provisions relating to the stabilization of export earnings, on the requests that the scope of Article 17(4) (which permits exports to all destinations to be taken into consideration for the calculation of transfers) be extended to certain of the new States. Furthermore, it will rule on the addition of new countries to the list of least developed countries given in Article 48 of the Convention.

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During its first year of application, the Lomé Convention has generally demonstrated that the sometimes very novel provisions introduced by the Community and the ACP States in certain areas in their mutual relations, could indeed be put into practice, without undue delay, in the interests of all parties, and implemented in general satisfactorily. Where difficulties have arisen on specific points, there has been a common willingness to seek solutions within the framework of the common institutions to take due consideration of all the interests involved, thereby enabling the results achieved from the Lomé Convention to be further enhanced.

In this way some problems have been resolved and others are in the process of being resolved, while concerted efforts are continuing in order to find an answer to those which remain unsolved.

Results such as these could not, however, have been achieved were it not for the fact that since the signing of the Convention and throughout the interim period, the parties have been moved by a spirit of understanding and dialogue enabling them to establish close and constant co-operation on a basis of complete equality between partners, in a spirit of international solidarity.

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RESOLUTION OF THE
ACP-EEC COUNCIL OF MINISTERS
ON FINANCIAL AND
TECHNICAL CO-OPERATION

(adopted by the Council in SUVA on 14 April 1977)

RESOLUTION OF THE ACP-EEC
COUNCIL OF MINISTERS

I. OVERALL ORIENTATION OF EFFORTS

1. So that financial and technical co-operation can have immediate and lasting effects for the ACP States, the Council requests the Community to take all necessary steps to expedite the implementation of national indicative programmes, the projects which they comprise, as well as the implementation of the regional and inter-regional projects of the ACP States.

With a view to rendering financial and technical co-operation more effective, the efforts should tend to:

- (a) organize economic development rationally, by increasing and diversifying production,
 - make judicious use of the resources available and
 - strengthen intra-ACP co-operation, inter alia by developing transport and telecommunications infra-structures with a view to widening their markets and diversifying their economies;
- (b) encourage and promote, within this framework, such schemes and efforts as are indispensable to contribute to the balanced development of all sectors of the economy;

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(c) stimulate efforts by producers and firms in the countries concerned, as well as new capital investments, so that existing firms may expand and new enterprises be set up,

(d) contribute to the promotion of joint undertakings.

2. The Council recommends that the Commission include in its Annual Report appropriate information on the financing and administrative expenses of the EDF and that this be considered by the joint ACP-EEC Subcommittee on Technical and Financial Co-operation, under the provisions of Article 41 of the Convention. This information will also be provided in respect of the implementation of projects financed by the EDF not included in the national indicative programmes.

3. In order that all the procedures provided for in Article 41 of the Lomé Convention may be completed, all necessary steps should be taken so that a meeting can be called for the second half of October 1977 at the latest between the persons responsible in the ACP States and in the Community for planning and implementing financial and technical co-operation, with the participation of representatives of regional and inter-regional groupings, so that a comprehensive balance-sheet can be drawn up of all activities in the context of financial and technical co-operation.

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II. APPLICATION OF CERTAIN SPECIFIC PROVISIONS OF THE LOME CONVENTION

1. Measures in favour of the least developed ACP States

The Council of Ministers takes note of the financial commitments from which several ACP States listed in Article 48 have benefited up to 31 December 1976.

It recommends:

- that these commitments be intensified in all the States on the list;
- that appropriate schemes be put in hand in order to remove specific barriers to the development of the least developed, landlocked and island countries.

Moreover, the Council of Ministers recommends that the most flexible and effective means of action authorized under the Lomé Convention be applied in order to implement projects in the said States.

To this end, the Council recommends that a joint ACP-EEC Subcommittee be set up to study the specific development problems confronting the least developed ACP States, in particular the landlocked and island countries.

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2. Regional co-operation

With a view to increasing the effectiveness of regional co-operation, the Council of Ministers recommends:

- that closer co-operation be set up between the ACP States and the EEC on the basis of the provisions laid down in Article 47 of the Lomé Convention in favour of regional co-operation so that a genuine regional development process can be set in motion and strengthened;
- that the funds available for regional co-operation be used in such a way as to play a stimulating and catalysing role so that resources may be diversified and augmented.

3. Microprojects

The Council notes the existence of simplified procedures which will have to be applied in order to ensure that micro-projects are implemented as soon as possible after the submission of programmes by the ACP States, and the power given to those States to decide on projects themselves, with the agreement of the Commission Delegate, within the framework of the programmes approved by the Community.

These microprojects are of special importance to the least developed, landlocked and island countries.

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4. Financing for small and medium-sized undertakings, technical assistance and transfer of technology

The Council recommends to the ACP States and the EEC that they do all in their power to ensure that the opportunities available under the Lomé Convention as regards the "two-tier" financing of small and medium-sized undertakings, technical assistance and transfer of technology are put to the best use for the development of the ACP States and that they complement the efforts undertaken in other areas of financial and technical co-operation.

III. TRAINING OF SUPERVISORY STAFF AND VOCATIONAL TRAINING

The Council of Ministers recommends:

- that training of personnel be undertaken on the basis of general and specific programmes drawn up by the ACP States,
- that the programmes drawn up by the ACP States be financed by the Community taking into account the priorities stated by the ACP States,
- that sufficient flexibility be maintained in implementing these programmes so as to take account of possible bottlenecks,
- that activities undertaken in connection with the training of supervisory staff, in particular middle-level administrators and civil servants, and those concerning vocational training, be intensified and, where appropriate, be more closely linked with the various development projects financed by the Community in each ACP State so that they can progressively be taken over totally and smoothly by the national administrators of the ACP States.

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The Council of Ministers feels that in this way it will be possible to expedite the replacement of technical assistants and to ensure the efficient management of investments made.

IV. OPERATION AND MAINTENANCE OF INVESTMENTS

The Council of Ministers recommends that, when projects are selected, particular attention be paid, in the implementation of financial and technical co-operation, to the problem of the operation and maintenance of investments carried out with the help of Community financing. It considers that the use of economic and social infrastructures necessitates action by qualified local staff and the mobilization of adequate budgetary resources.

With this in mind, the Council recommends, as is stipulated in Article 58(2) of the Lomé Convention, that, exceptionally, supplementary aid be provided temporarily and on a diminishing scale in order to ensure that full use is made of investments which are of special importance for the economic and social development of the ACP States concerned and the running of which temporarily constitutes a truly excessive burden for the ACP States or other beneficiaries.

V. PARTICIPATION OF THE ACP STATES IN THE PERFORMANCE OF EDF CONTRACTS

The Council of Ministers recommends that in every case and as far as possible optimal use be made of the human and physical resources of the ACP States and that technology which corresponds to the needs and adaptability of the populations be adopted.

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For the practical application of this principle the Council of Ministers lays emphasis on those provisions of the Lomé Convention whose application affords ACP firms the possibility of effective participation in studies on and the execution of projects.

VI. ASSESSMENT OF COMPLETED SCHEMES

To ensure that the objectives laid down in the Lomé Convention in the field of financial and technical co-operation as well as in the national indicative programmes and in the projects are attained and to ensure that the means of action brought into play are as effective as possible, the relevant departments of the Community and of the ACP States shall regularly carry out appraisals, taking into account the provisions of Article 50 of the Convention, of the effects and results of all completed projects as well as of the material condition of each investment carried out. They will carry out these appraisals jointly and inform the Council of Ministers, if possible as from 1978, of the initial conclusions which can be drawn from the joint appraisals.

COMMISSION REPORT
ON THE ADMINISTRATION OF
FINANCIAL AND TECHNICAL CO-OPERATION

The Commission's report for 1976 has been deleted. It is available as a separate document on AEI, <http://aei.pitt.edu/4177>.

