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Treaty Series No. 47 (1992)

# Fourth ACP—EEC Convention and Final Act (with related documents)

Lomé, 15 December 1989

[The Convention entered into force on 1 September 1991]

*Presented to Parliament  
by the Secretary of State for Foreign and Commonwealth Affairs  
by Command of Her Majesty  
July 1992*

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**FOURTH ACP—EEC CONVENTION  
SIGNED AT LOMÉ ON 15 DECEMBER 1989**

His Majesty The King of the Belgians, Her Majesty The Queen of Denmark, The President of the Federal Republic of Germany, The President of the Hellenic Republic, His Majesty The King of Spain, The President of the French Republic, The President of Ireland, The President of the Italian Republic, His Royal Highness The Grand Duke of Luxembourg, Her Majesty The Queen of the Netherlands, The President of the Portuguese Republic, Her Majesty The Queen of the United Kingdom of Great Britain and Northern Ireland, Contracting Parties to the Treaty establishing the European Coal and Steel Community and the Treaty establishing the European Economic Community hereinafter referred to as "the Community", the States of the Community being hereinafter referred to as "Member States"<sup>1</sup>, and the Council and the Commission of the European Communities,

of the one part, and

The President of the People's Republic of Angola, Her Majesty The Queen of Antigua and Barbuda, The Head of State of the Commonwealth of the Bahamas, The Head of State of Barbados, Her Majesty The Queen of Belize, The President of the People's Republic of Bénin, The President of the Republic of Botswana, The President of the People's Front, Head of State, Head of the Government of Burkina Faso, The President of the Republic of Burundi, The President of the Republic of Cameroon, The President of the Republic of Cape Verde, The President of the Central African Republic, The President of the Islamic Federal Republic of the Comoros, The President of the People's Republic of the Congo, The President of the Republic of the Côte d'Ivoire, The President of the Republic of Djibouti, The Government of the Commonwealth of Dominica, The President of the Dominican Republic, The President of the People's Democratic Republic of Ethiopia, The President of the Republic of Fiji, The President of the Gabonese Republic, The President of the Republic of the Gambia, The Head of State and Chairman of the Provisional National Defence Council of the Republic of Ghana, Her Majesty The Queen of Grenada, The President of the Republic of Guinea, The President of the Council of State of Guinea-Bissau, The President of the Republic of Equatorial Guinea, The President of the Co-operative Republic of Guyana, The President of the Republic of Haiti, The Head of State of Jamaica, The President of the Republic of Kenya, The President of the Republic of Kiribati, His Majesty The King of the Kingdom of Lesotho, The President of the Republic of Liberia, The President of the Democratic Republic of Madagascar, The President of the Republic of Malawi, The President of the Republic of Mali, The Chairman of the Military Committee for National Safety, Head of State of the Islamic Republic of Mauritania, Her Majesty The Queen of Mauritius, The President of the People's Republic of Mozambique, The President of the Supreme Military Council, Head of State of Niger, The Head of the Federal Government of Nigeria, The President of the Republic of Uganda, Her Majesty The Queen of Papua New Guinea, The President of the Rwandese Republic, Her Majesty The Queen of Saint Kitts and Nevis, Her Majesty The Queen of Saint Lucia, Her Majesty The Queen of Saint Vincent and the Grenadines, The Head of State of Western Samoa, The President of the Democratic Republic of São Tomé and Príncipe, The President of the Republic of Senegal, The President of the Republic of Seychelles, The President of the Republic of Sierra Leone, Her Majesty The Queen of the Solomon Islands, The President of the Somali Democratic Republic, The President of the Republic of the Sudan, The President of the Republic of Suriname, His Majesty The King of the Kingdom of Swaziland, The President of the United Republic of Tanzania, The President of the Republic of Chad, The President of the Togolese Republic, His Majesty King Taufa'ahau Tupou IV of Tonga, The President of the Republic of Trinidad and Tobago, Her Majesty The Queen of Tuvalu, The Government of the Republic of Vanuatu, The President of the Republic of Zaire, The President of the Republic of Zambia, The President of the Republic of Zimbabwe, whose States are hereinafter referred to as "ACP States",

of the other part,

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<sup>1</sup> Treaty Series No. 47 (1988), Cm 455.

Having regard to the Treaty establishing the European Economic Community and the Treaty establishing the European Coal and Steel Community, on the one hand, and the Georgetown Agreement constituting the group of African, Caribbean and Pacific States, on the other;

Anxious to reinforce, on the basis of complete equality between partners and in their mutual interest, close and continuing co-operation in a spirit of international solidarity;

Wishing to demonstrate their common desire to maintain and develop the friendly relations existing between their countries, in accordance with the principles of the Charter of the United Nations<sup>1</sup>;

Reaffirming their adherence to the principles of the said Charter and their faith in fundamental human rights, in all aspects of human dignity and in the worth of the human person, as the central agent and beneficiary of development, in the equal rights of men and women and of nations, large and small;

Recalling the Universal Declaration of Human Rights<sup>2</sup>, the International Covenant on Civil and Political Rights<sup>3</sup>, and the International Covenant on Economic, Social and Cultural Rights<sup>3</sup>; recognizing the need to respect and guarantee civil and political rights and to strive to bring about full enjoyment of economic, social and cultural rights;

Welcoming the Convention for the Protection of Human Rights and Fundamental Freedoms of the Council of Europe, the African Charter on Human and Peoples' Rights and the American Convention on Human Rights as positive regional contributions to the respect of human rights in the Community and in the ACP States;

Resolved to step up their common efforts to contribute towards international co-operation and to the solution of international problems of economic, social, intellectual and humanitarian nature, in conformity with the aspirations of the international community towards the establishment of a new, more just and more balanced world order;

Resolved to make, through their co-operation, a significant contribution to the economic, social and cultural development of the ACP States and to the greater well-being of their populations;

Have decided to conclude this Convention and to this end have designated as their Plenipotentiaries:

His Majesty the King of the Belgians:

André Geens,  
Minister for Development Co-operation;

Her Majesty the Queen of Denmark:

Jacob Rytter,  
Permanent Representative to the European Communities;

The President of the Federal Republic of Germany:

Irmgard Adam-Schwaetzer,  
Deputy Minister, Ministry for Foreign Affairs

The President of the Hellenic Republic:

Yannis Pottakis,  
Deputy Minister, Ministry for Foreign Affairs:

His Majesty The King of Spain:

Pedro Solbes,  
State Secretary for the European Communities;

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<sup>1</sup> Treaty Series No. 67 (1946), Cmd. 7015.

<sup>2</sup> United Nations No. 2 (1949), Cmd. 7662.

<sup>3</sup> Treaty Series No. 6 (1977), Cmd. 6702.

The President of the French Republic:

Jacques Pelletier,  
Minister for Co-operation and Development;

The President of Ireland:

Sean Calleary, T.D., M.P.,  
Minister of State at the Department of Foreign Affairs, responsible for  
Development Aid;

The President of the Italian Republic:

Claudio Lenoci,  
Under Secretary of State, Ministry of Foreign Affairs;

His Royal Highness the Grand Duke of Luxembourg:

Joseph Weyland,  
Permanent Representative to the European Communities;

Her Majesty the Queen of the Netherlands:

S. H. Blombergen,  
Chargé d'Affaires to Accra;

The President of the Portuguese Republic:

José Manuel Durão Barroso,  
State Secretary, Ministry for Foreign Affairs and Co-operation;

Her Majesty the Queen of the United Kingdom of Great Britain and Northern Ireland:

Lord Reay,  
Government Whip;

The Council and Commission of the European Communities:

Michel Rocard,  
Prime Minister of the French Republic, President-in-Office of the Council of the  
European Communities;  
Manuel Marin,  
Vice President of the Commission of the European Communities;

The President of the People's Republic of Angola:

Emilio José de Carvalho Guerra,  
Head of the Mission of the People's Republic of Angola to the European  
Communities;

Her Majesty the Queen of Antigua and Barbuda:

James Thomas,  
High Commissioner of Antigua and Barbuda;

The Head of State of the Commonwealth of the Bahamas:

Patricia Elaine Joan Rodgers,  
Head of the Mission of the Commonwealth of the Bahamas;

The Head of State of Barbados:

Edward Evelyn Greaves,  
Minister of Trade, Industry and Commerce;

Her Majesty the Queen of Belize:

Sir Edney Cain,  
High Commissioner to the United Kingdom;

The President of the People's Republic of Benin:

Amos Elegbe,  
Minister for Trade, Craft Trades and Tourism;

The President of the Republic of Botswana:

Archibald M. Mogwe,  
Minister of Mineral Resources and Water Affairs;

The President of the People's Front, Head of State, Head of the Government of Burkina Faso:

Pascal Zagre,  
Minister for Planning and Co-operation;

The President of the Republic of Burundi:

D. R. Salvator Sahinguvu,  
State Secretary to the Prime Minister responsible for Planning;

The President of the Republic of Cameroon:

Elisabeth Tankeu,  
Minister for Planning and Regional Development;

The President of the Republic of Cape Verde:

Adao Rocha,  
Minister for Industry and Energy;

The President of the Central African Republic:

Thierry Ingaba,  
State Secretary for Planning and International Co-operation;

The President of the Islamic Federal Republic of the Comoros:

Ali Mlahaili,  
Ambassador to the French Republic;

The President of the People's Republic of the Congo:

Pierre Moussa,  
Minister responsible for Planning and Economic Affairs;

The President of the Republic of the Cote d'Ivoire;

Moise Koffi Koumoue,  
Minister for Economic Affairs and Finance;

The President of the Republic of Djibouti:

Ahmed Ibrahim Abdi,  
Minister of Labour and Social Security;

The Government of the Commonwealth of Dominica:

Charles Angelo Savarin,  
Ambassador to the Kingdom of Belgium;

The President of the Dominican Republic:

Joaquín Ricardo,  
Minister of Foreign Affairs;

The President of the People's Democratic Republic of Ethiopia:

Aklilu Afework;  
Minister, Head of the Office of the State Committee for Foreign Economic Relations;

The President of the Republic of Fiji:

Kaliopate Tavola,  
Head of the Mission of Fiji to the European Communities,

The President of the Gabonese Republic:

Pascal Nze,  
Minister for Planning, Development and Economic Affairs;

The President of the Republic of the Gambia:

Saihou S. Sabally,  
Minister of Finance and Trade;

The Head of State and Chairman of the Provisional National Defence Council of the Republic of Ghana:

Dr. Kwesi Botchwey, PNDC,  
Secretary for Finance and Economic Planning;

Her Majesty the Queen of Grenada:

Denneth Matthew Modeste,  
Permanent Secretary, Ministry for External Affairs;

The President of the Republic of Guinea:

Ibrahim Sylla,  
Minister for Planning and International Co-operation;

The President of the Council of the State of Guinea-Bissau:

Aristides Menezes,  
State Secretary, Ministry for International Co-operation;

The President of the Republic of Equatorial Guinea:

Alejandro Evuna Owono,  
Minister of State entrusted with Missions to the Presidency of the Republic;

The President of the Co-operative Republic of Guyana:

Jame H. E. Matheson:  
Ambassador Extraordinary, Head of the Mission of the Co-operative Republic of Guyana to the European Communities;

The President of the Republic of Haiti:

Yvon Perrier,  
Minister for Foreign Affairs and Cults;

The Head of State of Jamaica:

Leslie Armon Wilson,  
Ambassador, Head of the Mission of Jamaica to the European Communities;

The President of the Republic of Kenya:

Dr. Zacharia T. Onyonka, M.P.,  
Minister for Planning and National Development;

The President of the Republic of Kiribati:

Michael T. Somare:  
Minister for Foreign Affairs of Papua New Guinea;

His Majesty the King of the Kingdom of Lesotho:

Dr. M. M. Sefali,  
Minister of Planning, Economic and Manpower Development;

The President of the Republic of Liberia:

Dr. Elijah Taylor,  
Minister of Planning and Economic Affairs;

The President of the Democratic Republic of Madagascar:

Georges Yvan Solofoson,  
Minister for Trade;

The President of the Republic of Malawi:

R. W. Chirwa, M.P.,  
Minister of Trade, Industry and Tourism;



The President of the Republic of Mali:

Dr. N'Golo Traore,  
Minister for Foreign Affairs and International Co-operation;

The Chairman of the Military Committee for National Safety, Head of State of the Islamic Republic of Mauritania:

Mohamed Lemine Ould N'Diayane, Lieutenant-Colonel,  
Member and Permanent Secretary of the Military Committee for National Safety;

Her Majesty the Queen of Mauritius:

Murlidass Dulloo,  
Minister for Agriculture, Fisheries and Natural Resources;

The President of the People's Republic of Mozambique:

Pascoal Manuel Mocumbi,  
Minister for Foreign Affairs;

The President of the Supreme Military Council, Head of State of Niger:

Yacouba Sandi,  
State Secretary in the Ministry for Foreign Affairs and Co-operation, responsible for Co-operation;

The Head of the Federal Military Government of Nigeria:

Dr. Chu S. P. Okongwu,  
Minister of Finance and Economic Development;

The President of the Republic of Uganda:

Abbey Kafumbe-Mukasa,  
Deputy Minister of Finance;

Her Majesty the Queen of Papua New Guinea:

Michael T. Somare, C. H.,  
Minister for Foreign Affairs;

The President of the Rwandese Republic:

Aloys Nsekaliye, Colonel,  
Minister for Industry and Craft Trades;

Her Majesty the Queen of Saint Kitts and Nevis:

Edwin Laurent,  
Minister Counsellor of the High Commission of Eastern Caribbean States in London;

Her Majesty the Queen of Saint Lucia:

Edwin Laurent,  
Minister Counsellor of the High Commission of Eastern Caribbean States in London;

Her Majesty the Queen of Saint Vincent and the Grenadines:

Edwin Laurent,  
Minister Counsellor of the High Commission of Eastern Caribbean States in London;

The Head of State of Western Samoa:

Amua L. Ioane,  
High Commissioner;

The President of the Democratic Republic of São Tomé and Príncipe:

Carlos Ferreira,  
Minister for Social Infrastructure and the Environment;

The President of the Republic of Senegal:  
Seydina Oumar Sy,  
Minister for Trade;

The President of the Republic of Seychelles:  
Claude Morel,  
Chargé d'affaires a.i. of the Seychelles Embassy in Paris;

The President of the Republic of Sierra Leone:  
Leonard S. Fofanah,  
Minister of State,  
Ministry of National Development and Economic Planning;

Her Majesty the Queen of the Solomon Islands:  
Lord Reay,  
Government Whip;

The President of the Somali Democratic Republic:  
Ali Hassan Ali, Ambassador,  
Head of the Mission of the Somali Democratic Republic to the European  
Communities;

The President of the Republic of the Sudan:  
Dr. Sayed Ali Zaki,  
Minister of Finance and Economic Planning;

The President of the Republic of Suriname:  
Donald Aloysius Macloud,  
Ambassador Extraordinary, Head of the Mission of the Republic of Suriname to  
the European Communities;

His Majesty the King of the Kingdom of Swaziland:  
Nkomeni Douglas Ntiwane,  
Senator, Minister of Commerce, Industry and Tourism;

The President of the United Republic of Tanzania:  
Joseph A. T. Muwowo,  
Minister Plenipotentiary, Chargé d'affaires a.i. of the Embassy of the United  
Republic of Tanzania to the European Communities;

The President of the Republic of Chad:  
Ibni Oumar Mahamat Saleh,  
Minister for Planning and Co-operation;

The President of the Togolese Republic:  
Barry Moussa Barque,  
Minister for Planning and Mining;

His Majesty King Taufa'ahau Tupou IV of Tonga:  
H.R.H. Crown Prince Tupouto'a, Minister for Foreign Affairs;

The President of the Republic of Trinidad and Tobago:  
Dr. Sahadeo Basdeo  
Senator, Minister of External Affairs and International Trade;

Her Majesty the Queen of Tuvalu:  
Peter Feist,  
Honorary Consul to the Federal Republic of Germany;

The Government of the Republic of Vanuatu:

Harold Colin Qualao,

Minister of Trade, Commerce, Co-operatives, Industry and Energy;

The President of the Republic of Zaire:

Mobutu Nyiwa,

State Commissioner for International Co-operation;

The President of the Republic of Zambia:

Rabbison Mafeshi Chongo, M.P.,

Minister of Commerce and Industry;

The President of the Republic of Zimbabwe:

Dr. O. M. Munyaradzi,

Minister of Trade and Commerce;

Who having exchanged their Full Powers, found in good and due form,

Have agreed as follows:

## PART ONE

### GENERAL PROVISIONS OF ACP—EEC CO-OPERATION

#### CHAPTER 1

#### Objectives and Principles of Co-operation

##### ARTICLE 1

The Community and its Member States, of the one part, and the ACP States, of the other part (hereinafter referred to as the Contracting Parties), hereby conclude this co-operation Convention in order to promote and expedite the economic, cultural and social development of the ACP States and to consolidate and diversify their relations in a spirit of solidarity and mutual interest.

The Contracting Parties thereby affirm their undertaking to continue, strengthen and render more effective the system of co-operation established under the first<sup>1</sup>, second<sup>2</sup> and third<sup>3</sup> ACP—EEC Conventions and confirm the special character of their relations, based on their reciprocal interest, and the specific nature of their co-operation.

The Contracting Parties hereby express their resolve to intensify their effort to create, with a view to a more just and balanced international economic order, a model for relations between developed and developing states and to work together to affirm in the international context the principles underlying their co-operation.

##### ARTICLE 2

ACP—EEC co-operation, underpinned by a legally binding system and the existence of joint institutions, shall be exercised on the basis of the following fundamental principles:

- equality between partners, respect for their sovereignty, mutual interest and interdependence;
- the right of each State to determine its own political, social, cultural and economic policy options;
- security of their relations based on the *acquis* of their system of co-operation.

##### ARTICLE 3

The ACP States shall determine the development principles, strategies and models for their economies and societies in all sovereignty.

##### ARTICLE 4

Support shall be provided in ACP—EEC co-operation for the ACP States' efforts to achieve comprehensive self-reliant and self-sustained development based on their cultural and social values, their human capacities, their natural resources and their economic potential in order to promote the ACP States' social, cultural and economic progress and the well-being of their populations through the satisfaction of their basic needs, the recognition of the role of women and the enhancement of people's capacities, with respect for their dignity.

Such development shall be based on a sustainable balance between its economic objectives, the rational management of the environment and the enhancement of natural and human resources.

##### ARTICLE 5

1. Co-operation shall be directed towards development centred on man, the main protagonist and beneficiary of development, which thus entails respect for and promotion of all human rights. Co-operation operations shall thus be conceived in accordance with

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<sup>1</sup> Treaty Series No. 105 (1979), Cmnd. 7751.

<sup>2</sup> Treaty Series No. 3 (1983), Cmnd. 8761.

<sup>3</sup> Treaty Series No. 15 (1988), Cm 321.

the positive approach, where respect for human rights is recognized as a basic factor of real development and where co-operation is conceived as a contribution to the promotion of these rights.

In this context development policy and co-operation are closely linked with the respect for and enjoyment of fundamental human rights. The role and potential of initiatives taken by individuals and groups shall also be recognized and fostered in order to achieve in practice real participation of the population in the development process in accordance with Article 13.

2. Hence the Parties reiterate their deep attachment to human dignity and human rights, which are legitimate aspirations of individuals and peoples. The rights in question are all human rights, the various categories thereof being indivisible and inter-related, each having its own legitimacy: non-discriminatory treatment; fundamental human rights; civil and political rights; economic, social and cultural rights.

Every individual shall have the right, in his own country or in a host country, to respect for his dignity and protection by the law.

ACP-EEC co-operation shall help abolish the obstacles preventing individuals and peoples from actually enjoying to the full their economic, social and cultural rights and this must be achieved through the development which is essential to their dignity, their well-being and their self-fulfilment. To this end, the Parties shall strive, jointly or each in its own sphere of responsibility, to help eliminate the causes of situations of misery unworthy of the human condition and of deep-rooted economic and social inequalities.

The Contracting Parties hereby reaffirm their existing obligations and commitment in international law to strive to eliminate all forms of discrimination based on ethnic group, origin, race, nationality, colour, sex, language, religion or any other situation. This commitment applies more particularly to any situation in the ACP States or in the Community that may adversely affect the pursuit of the objectives of the Convention, and to the system of apartheid, having regard also to its destabilizing effects on the outside. The Member States (and/or, where appropriate, the Community itself) and the ACP States will continue to ensure, through the legal or administrative measures which they have or will have adopted, that migrant workers, students and other foreign nationals legally within their territory are not subjected to discrimination on the basis of racial, religious, cultural or social differences, notably in respect of housing, education, health care, other social services and employment.

3. At the request of the ACP States, financial resources may be allocated, in accordance with the rules governing development finance co-operation, to the promotion of human rights in the ACP States through specific schemes, public or private, that would be decided, particularly in the legal sphere, in consultation with bodies of internationally recognized competence in the field. Resources may also be given to support the establishment of structures to promote human rights. Priority shall be given to schemes of regional scope.

#### ARTICLE 6

1. With a view to attaining more balanced and self-reliant economic development in the ACP States, special efforts shall be made under this Convention to promote rural development, food security for the people, rational management of natural resources, and the preservation, revival and strengthening of agricultural production potential in the ACP States.

2. The Contracting Parties recognize that priority must be given to environmental protection and the conservation of natural resources, which are essential conditions for sustainable and balanced development from both the economic and human viewpoints.

#### ARTICLE 7

The Community and the ACP States shall give special importance and high priority to regional co-operation and integration. In this context, the Convention shall offer effective support for the ACP States' efforts to organize themselves into regional groupings and to step up their co-operation at regional and inter-regional level with a view to promoting a new, more just and more balanced economic order.

#### ARTICLE 8

The Contracting Parties acknowledge the need to accord special treatment to the least-developed ACP States and to take account of the specific difficulties confronting the landlocked and island ACP States. They shall pay special attention to improving the living conditions of the poorest sections of the population.

Co-operation shall comprise, *inter alia*, special treatment when determining the volume of financial resources and the conditions attached thereto in order to enable the least-developed ACP States to overcome structural and other obstacles to their development.

For the landlocked and island ACP States, co-operation shall be aimed at devising and encouraging specific operations to deal with development problems caused by their geographical situations.

#### ARTICLE 9

In order to step up the effectiveness of the instruments of this Convention, the Contracting Parties shall adopt, in the framework of their respective responsibilities, guidelines, priorities and measures conducive to attaining the objectives set out in this Convention and agree to pursue, in accordance with the principles set out in Article 2, the dialogue within joint institutions and in the co-ordinated implementation of development finance co-operation and the other co-operation instruments.

#### ARTICLE 10

The Contracting Parties shall, each as far as it is concerned in the framework of this Convention, take all appropriate measures, whether general or particular, to ensure the fulfilment of the obligations arising from this Convention and to facilitate the pursuit of its objectives. They shall refrain from any measures liable to jeopardize the attainment of the objectives of this Convention.

#### ARTICLE 11

Within the scope of their respective responsibilities, the institutions of this Convention shall examine periodically the results of the application thereof, provide any necessary impetus and take any relevant decision or measure for the attainment of its objectives.

Any question that might directly hamper the effective attainment of the objectives of this Convention may be raised in the context of the institutions.

Consultations shall take place within the Council of Ministers at the request of either Contracting Party in cases provided for in this Convention or where difficulties arise with the application or interpretation thereof.

#### ARTICLE 12

Where the Community intends, in the exercise of its powers, to take a measure which might affect the interests of the ACP States as far as this Convention's objectives are concerned, it shall inform in good time the said States of its intentions. Towards this end, the Commission shall communicate regularly to the Secretariat of the ACP States any proposals for such measures. Where necessary, a request for information may also take place on the initiative of the ACP States.

At their request, consultations shall be held in good time so that account may be taken of their concerns as to the impact of those measures before any final decision is made.

After such consultations have taken place, the ACP States shall also be provided with adequate information on the entry into force of such decisions, in advance whenever possible.

## CHAPTER 2

### Objectives and Guidelines of the Convention in the Main Areas of Co-operation

#### ARTICLE 13

Co-operation shall be aimed at supporting development in the ACP States, a process centred on man himself and rooted in each people's culture. It shall back up the policies and measures adopted by those States to enhance their human resources, increase their own creative capacities and promote their cultural identities. Co-operation shall also encourage participation by the population in the design and execution of development operations.

Account shall be taken, in the various fields of co-operation, and at all the different stages of the operations executed, of the cultural dimension and social implications of such operations and of the need for both men and women to participate and benefit on equal terms.

#### ARTICLE 14

Co-operation shall entail mutual responsibility for preservation of the natural heritage. In particular, it shall attach special importance to environmental protection and the preservation and restoration of natural equilibria in the ACP States. Co-operation schemes in all areas shall therefore be designed to make the objectives of economic growth compatible with development that respects natural equilibria and brings about lasting results in the service of man.

In the framework of efforts to protect the environment and restore natural balances, co-operation shall help promote specific operations concerning the conservation of natural resources, renewable and non-renewable, the protection of ecosystems and the control of drought, desertification and deforestation; other operations on specific themes shall also be undertaken (notably locust control, the protection and utilization of water resources, the preservation of tropical forests and biological diversity, the promotion of a better balance between urban and rural areas, and the urban environment).

#### ARTICLE 15

Agricultural co-operation shall be aimed at the pursuit of food self-sufficiency and food security in the ACP States, developing and organizing their productive systems, improving the living standards and conditions and the life styles of the rural population and achieving the balanced development of rural areas.

Operations in this field shall be designed and executed to support the agricultural and food policies or strategies adopted by the ACP States.

#### ARTICLE 16

Co-operation in the field of mining and energy shall be directed at promoting and expediting, in the mutual interest, diversified economic development, deriving full benefit from the ACP States' human potential and natural resources, and at fostering better integration of these and other sectors and their complementarity with the rest of the economy.

Co-operation shall be aimed at creating and consolidating the cultural, social and economic environment and the infrastructure required to achieve that objective.

Support shall be provided for the ACP States' efforts to devise and implement energy policies suited to their situation, notably the gradual reduction of the dependence of the majority of them on imported petroleum products and the development of new and renewable sources of energy.

Co-operation shall be aimed at encouraging improved exploitation of energy and mining resources by taking account of the energy component in the development of the different economic and social sectors and thus helping to improve living conditions and the environment, leading to the better conservation of biomass resources, particularly fuelwood.

## ARTICLE 17

The Community and the ACP States acknowledge that industrialization is a driving force—complementary to agricultural and rural development—in promoting the economic transformation of the ACP States in order to achieve self-sustained growth and balanced and diversified development. Industrial development is needed to enhance the productivity of the ACP economies so that they can meet basic human needs and step up the competitive participation of the ACP States in world trade by way of selling more value-added products.

## ARTICLE 18

Given the extreme dependence of the economies of the vast majority of ACP States on their export of commodities, the Contracting Parties agree to pay particular attention to their co-operation in this sector with a view to supporting ACP States' policies or strategies designed:

- on the one hand to foster diversification, both horizontal and vertical, of the ACP economies, in particular through the development of processing, marketing, distribution and transport (PMDT) and,
- on the other hand, to improve the competitiveness of the ACP States' commodities on world markets through the reorganization and rationalization of their production, marketing and distribution activities.

## ARTICLE 19

The aim of co-operation in fisheries shall be to help the ACP States to develop their fishery resources in order to expand production for domestic consumption as part of their efforts to achieve increased food security and increase production for export. Such co-operation shall be designed to serve the mutual interests of the Parties, in accordance with their fishery policies.

## CHAPTER 3

### Widening Participation in Co-operation Activities

## ARTICLE 20

In accordance with Articles 2, 3 and 13 and in order to encourage all parties from the ACP States and the Community which are in a position to contribute to the autonomous development of the ACP States to put forward and implement initiatives, co-operation shall also support, within limits laid down by the ACP States concerned, development operations put forward by economic, social and cultural organizations in the framework of decentralized co-operation, in particular where they combine the efforts and resources of organizations from the ACP States and their counterparts from the Community. This form of co-operation shall be aimed in particular at making the capabilities, original operating methods and resources of such parties available to the development of the ACP States.

The parties referred to in this Article are decentralized public authorities, rural and village groupings, co-operatives, firms, trade unions, teaching and research centres, non-governmental development organizations, various associations and all groups and parties which are able and wish to make their own spontaneous and original contribution to the development of ACP States.

## ARTICLE 21

Co-operation shall encourage and support the initiatives of the ACP parties referred to in Article 20, provided they correspond with the priorities, guidelines and development methods adopted by the ACP States. In this framework, co-operation shall support either the independent activities of ACP parties or the activities of ACP parties which are combined with support from similar parties from the Community which make their capabilities, experience, technological and organizational capabilities or financial resources available to them.



Co-operation shall encourage parties from the ACP States and the Community to provide supplementary financial and technical resources for the development effort. Co-operation may provide decentralized co-operation operations with financial and/or technical support drawn from the resources of the Convention under the conditions laid down in Article 22.

This form of co-operation shall be organized in accordance with the role and the prerogatives of the public authorities of the ACP States.

#### ARTICLE 22

Decentralized co-operation operations may be supported through the instruments of development finance co-operation, with the approval of the ACP States concerned, preferably from the programming stage, of the principle of and the conditions for providing support for this form of co-operation. Such support shall be provided to the extent to which it is necessary for the successful implementation of the proposed operations provided the usefulness of the latter has been recognized and in accordance with the provisions for development finance co-operation. Projects under this form of co-operation may be linked, or not, with programmes in the concentration sectors of the indicative programmes with a priority for those linked to the concentration sectors.

#### CHAPTER 4

### **Principles Governing the Instruments of Co-operation**

#### ARTICLE 23

In order to contribute towards achieving the aims of this Convention, the Contracting Parties shall deploy co-operation instruments that correspond to the principles of solidarity and mutual interest, adapted to the economic, cultural and social situation in the ACP States and in the Community and to developments in their international environment.

These instruments shall be directed mainly, by strengthening the established mechanisms and systems, at:

- increasing trade between the Parties;
- supporting the ACP States' efforts to achieve self-reliant development by stepping up their capacity to innovate and to adapt and transform technology;
- supporting the ACP States' structural adjustment efforts and thus contributing to the attenuation of the debt burden;
- helping the ACP States to gain access to the capital markets and encouraging direct private European investment to contribute towards the development of the ACP States;
- remedying the instability of export earnings from the ACP States' agricultural commodities and helping those countries to cope with serious disruptions affecting their mining industries.

#### ARTICLE 24

In order to promote and diversify trade between the Contracting Parties, the Community and the ACP States are agreed on:

- general trade provisions;
- special arrangements for Community import of certain ACP products;
- arrangements to promote the development of the ACP States' trade and services, including tourism;
- a system of reciprocal information and consultation designed to help apply the trade co-operation provisions of this Convention effectively.

## ARTICLE 25

The aim of the general trade arrangements, which are based on the Contracting Parties' international obligations, shall be to provide a firm and solid foundation for trade co-operation between the ACP States and the Community.

They shall be based on the principle of free access to the Community market for products originating in the ACP States, with special provisions for agricultural products and a safeguard clause.

In view of the ACP States' present development needs, the arrangements shall not comprise any element of reciprocity for those States as regards free access.

They shall also be based on the principle of non-discrimination by the ACP States between the Member States and the according to the Community of treatment no less favourable than the most-favoured-nation treatment.

## ARTICLE 26

The Community shall contribute towards the ACP States' own development efforts by providing adequate financial resources and appropriate technical assistance aimed at stepping up those States' capacities for self-reliant and integrated economic, social and cultural development and also at helping to raise their populations' standard of living and well-being, and promote and mobilize resources in support of sustainable, effective and growth-oriented structural adjustment programmes.

Such contributions shall be made on a more predictable and continuous basis. They shall be provided at very highly concessional terms. Particular account shall be taken of the situation of the least-developed ACP States.

## ARTICLE 27

The Contracting Parties agree to facilitate greater, more stable flows of resources from the private sector to the ACP States by taking measures to improve the access of ACP States to capital markets and to encourage European private investment in ACP States.

The Contracting Parties underline the need to promote, protect, finance and support investment and to provide equitable and stable conditions for the treatment of such investment.

## ARTICLE 28

The Contracting Parties agree to confirm the importance of the system for the stabilization of export earnings, as well as of intensifying the process of consultation between the ACP States and the Community in international fora and organizations which aim to stabilize agricultural commodity markets.

Given the role played by the mining industry in the development efforts of numerous ACP States and the ACP-EEC mutual dependence in that sector, the Contracting Parties confirm the importance of the system established to help ACP States confronted with serious disruptions in that sector to restore it to a viable state and remedy the consequences of such disruptions for their development.

## CHAPTER 5

### Institutions

## ARTICLE 29

The institutions of this Convention shall be the Council of Ministers, the Committee of Ambassadors and the Joint Assembly.

#### ARTICLE 30

1. The Council of Ministers shall be composed, on the one hand, of the members of the Council of the European Communities and of members of the Commission of the European Communities and, on the other hand, of a member of the government of each of the ACP States.
2. The functions of the Council of Ministers shall be to:
  - (a) establish the broad lines of the work to be undertaken in the context of the application of this Convention, notably in helping to solve problems fundamental to the joint and several development of the Contracting Parties;
  - (b) take any political decision for the attainment of the objectives of this Convention;
  - (c) take decisions in the specific areas provided for in this Convention;
  - (d) ensure efficient performance of the consultation mechanisms provided for in this Convention;
  - (e) deal with problems of interpretation of this Convention;
  - (f) settle procedural questions and arrangements for the implementation of this Convention;
  - (g) examine, at the request of one of the Contracting Parties, any question directly liable to hinder or promote the effective and efficient implementation of this Convention or any other issue likely to obstruct attainment of its objectives;
  - (h) take all necessary measures to establish on-going contacts between the economic, cultural and social development bodies in the Community and in the ACP States and to arrange regular consultations with their representatives on matters of mutual interest, given the importance, acknowledged by the Contracting Parties of establishing an effective dialogue between these bodies and of securing their contribution to the co-operation and development effort.

#### ARTICLE 31

1. The Committee of Ambassadors shall be composed, on the one hand, of each Member State's Permanent Representative to the European Communities and one representative of the Commission and, on the other, of the head of each ACP State's mission to the European Communities.

2. The Committee of Ambassadors shall assist the Council of Ministers in the performance of its functions and shall carry out any brief given to it by the Council.

It shall monitor implementation of this Convention and progress towards achieving the objectives set therein.

#### ARTICLE 32

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

2. (a) The Joint Assembly shall be a consultative body, which shall seek, through dialogue, debate and concerted action, to:
  - promote better understanding between the peoples of the Member States and the ACP States;
  - promote public awareness of the interdependence of the peoples and of their interests as well as of the need for solidarity in development;
  - reflect upon all matters pertaining to ACP-EEC co-operation, particularly the fundamental problems of development;

- encourage research and initiative, and formulate proposals with a view to improving and reinforcing ACP-EEC co-operation;
  - urge the relevant authorities of the Contracting Parties to implement this Convention in the most efficient manner possible so as to ensure the full attainment of its objectives;
- (b) the Joint Assembly shall organize regular contacts and consultations with representatives of economic, cultural and social development bodies in the ACP States and in the Community in order to obtain their views on the attainment of the objectives of this Convention.

**PART TWO**  
**THE AREAS OF ACP—EEC CO-OPERATION**

**TITLE I**

**Environment**

**ARTICLE 33**

In the framework of this Convention, the protection and the enhancement of the environment and natural resources, the halting of the deterioration of land and forests, the restoration of ecological balances, the preservation of natural resources and their rational exploitation are basic objectives that the ACP States concerned shall strive to achieve with Community support with a view to bringing an immediate improvement in the living conditions of their populations and to safeguarding those of future generations.

**ARTICLE 34**

The ACP States and the Community recognize that the existence of some ACP States is under threat as a result of a rapid deterioration of the environment that hinders any development efforts, in particular those aimed at achieving the priority objectives of food self-sufficiency and food security.

For many ACP States efforts to halt this deterioration of the environment and conserve natural resources are imperative and call for the preparation and implementation of coherent modes of development that have due regard for ecological balances.

**ARTICLE 35**

The dimension of the environmental problem and of the means to be deployed mean that operations will have to be carried out in the context of overall, long-term policies, drawn up and implemented by the ACP States at national, regional and international level with international support.

To this end, the Parties agree to give priority in their activities to:

- a preventive approach aimed at avoiding harmful effects on the environment as a result of any programme or operation;
- a systematic approach that will ensure ecological viability at all stages, from identification to implementation;
- a trans-sectoral approach that takes into account not only the direct but also the indirect consequences of the operations undertaken.

**ARTICLE 36**

The protection of the environment and natural resources requires a comprehensive approach embracing the social and cultural dimensions.

In order to ensure that this specific dimension shall be taken into account, attention shall be given to incorporating suitable educational, training, information and research schemes in projects and programmes.

**ARTICLE 37**

Co-operation instruments appropriate to environmental needs shall be designed and implemented.

Where necessary, both qualitative and quantitative criteria may be used. Jointly approved check-lists shall be used to help estimate the environmental viability of proposed operations, whatever their scale. Environmental impact assessment will be carried out as appropriate in the case of large-scale projects and those posing a significant threat to the environment.

For the proper integration of environmental considerations, physical inventories, where possible translated into accounting terms, shall be drawn up.

The implementation of these instruments has to ensure that, should an adverse environmental impact be foreseen, the necessary corrective measures are formulated in the early stage of the preparation of the proposed project or programme so that it can go ahead in accordance with the planned timetable though improved in terms of environmental and natural resource protection.

#### ARTICLE 38

The Parties, desirous of bringing real protection and effective management to the environment and natural resources, consider that the areas of ACP-EEC co-operation covered in Part Two of this Convention shall be systematically examined and appraised in this light.

In this spirit the Community shall support efforts made by the ACP States at national, regional and international level and also operations mounted by intergovernmental and non-governmental organizations in furtherance of national and intergovernmental policies and priorities.

#### ARTICLE 39

1. The Contracting Parties undertake, for their part, to make every effort to ensure that international movements of hazardous waste and radioactive waste are generally controlled, and they emphasize the importance of efficient international co-operation in this area.

With this in view, the Community shall prohibit all direct or indirect export of such waste to the ACP States while at the same time the ACP States shall prohibit the direct or indirect import into their territory of such waste from the Community or from any other country, without prejudice to specific international undertakings to which the Contracting Parties have subscribed or may subscribe in the future in these two areas within the competent international fora.

These provisions do not prevent a Member State to which an ACP State has chosen to export waste for processing from returning the processed waste to the ACP State of origin.

The Contracting Parties shall expedite adoption of the necessary internal legislation and administrative regulations to implement this undertaking. At the request of one of the Parties, consultations may be held if delays are encountered. At the conclusion of such consultations each Party may take appropriate steps in the light of the situation.

2. The Parties undertake to monitor strictly the implementation of the prohibition measures referred to in the second paragraph of paragraph 1. Should difficulties arise in this respect, consultations may be held subject to the same conditions as those provided for in the second paragraph of paragraph 1 and with the same effect.

3. The term "hazardous waste" within the meaning of this Article shall cover categories of products listed in Annexes 1 and 2 to the Basle Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal<sup>1</sup>.

As regards radioactive waste, the applicable definitions and thresholds shall be those which will be laid down in the framework of the IAEA. In the meantime, the said definitions and thresholds shall be those specified in the declaration in Annex VIII to this Convention.

#### ARTICLE 40

At the request of the ACP States, the Community shall provide available technical information on pesticides and other chemical products with a view to helping them develop or reinforce a suitable and safe use of these products.

Where necessary and in accordance with the provisions for development finance co-operation, technical assistance can be given in order to ensure conditions of safety at all stages, from production to disposal of such products.

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<sup>1</sup> Miscellaneous No. 4 (1990) Cm 984.

## ARTICLE 41

The Parties recognize the value of exchanging views, using existing consultation mechanisms under this Convention, on major ecological hazards, whether on a planetary scale (such as the greenhouse effect, the deterioration of the ozone layer, tropical forests, etc.), or of a more specific scope resulting from the application of industrial technology. Such consultations may be requested by either Party, in so far as these hazards may in practice affect the Contracting Parties, and will be aimed at assessing the scope for joint action to be undertaken within the terms of this Convention. If necessary, the consultations will also provide for an exchange of views prior to discussions conducted on these subjects in the appropriate international fora.

## TITLE II

### **Agricultural Co-operation, Food Security and Rural Development**

#### CHAPTER 1

#### **Agricultural Co-operation and Food Security**

#### ARTICLE 42

Co-operation in the agricultural and rural sector, that is arable farming, livestock production, fisheries and forestry, shall be aimed, *inter alia*, at:

- continuously and systematically promoting viable and sustainable development based in particular on protection of the environment and the rational management of natural resources;
- supporting the ACP States' efforts to increase their degree of self-sufficiency in food, in particular by strengthening the capacity of the ACP States to provide their populations with food of adequate quantity and quality and to ensure a satisfactory level of nutrition;
- reinforcing food security at national, regional and inter-regional level by stimulating regional trade flows of food products and improving co-ordination of the food policies of the countries concerned;
- guaranteeing the rural population incomes that will significantly improve their standard of living, in order to be able to cover their essential needs in the areas of food, education, health and living conditions;
- encouraging the active participation of the rural population, both men and women, in their own development by organizing small farmers into associations and integrating producers, men and women, more effectively into national and international economic activity;
- increasing the participation of women in their capacity as producers, notably by improving access to all factors of production (land, inputs, credit, extension services and training);
- creating satisfactory living conditions and a satisfactory life style in the rural environment, notably by developing social and cultural activities;
- improving rural productivity, notably by transfers of appropriate technology and the rational exploitation of plant and animal resources;
- reducing post-harvest losses;
- reducing the workload of women by, *inter alia*, promoting suitable post-harvest and food-processing technologies;
- diversifying job-creating rural activities and expanding activities that back up production;
- improving production by on-the-spot processing of the products of arable and livestock farming, fisheries and forestry;
- ensuring a better balance between food crops and export crops;

- developing and strengthening agricultural research tailored to the natural and human environment of the country and the region and meeting extension service and food security requirements;
- in the context of the above objectives, protecting the natural environment particularly through specific operations to protect and conserve ecosystems and to fight against drought, desertification and deforestation.

#### ARTICLE 43

1. Operations to attain the objectives referred to in Article 42 shall be as varied and practical as possible, at national, regional and inter-regional level.
2. They shall, furthermore, be designed and deployed to implement the policies and strategies established by the ACP States and respect their priorities.
3. Support shall be provided for such policies and strategies in the context of agricultural co-operation in accordance with the provisions of this Convention.

#### ARTICLE 44

1. Development of production calls for a rational stepping-up of animal and crop production and involves:
  - improving farming methods for rain-fed crops while conserving soil fertility;
  - developing irrigated crops, *inter alia* through different types of agricultural water schemes (village water engineering, regulation of watercourses and soil improvement) ensuring optimum use and thrifty management of water which can be mastered by farmers and by local communities; operations shall also consist in the rehabilitation of existing schemes;
  - improving and modernizing cultivation techniques and making better use of factors of production (improved varieties and breeds, agricultural equipment, fertilizers, plant treatment preparations);
  - in the sphere of livestock farming, improving animal feed (more effective management of pasture, increased fodder production, more new water-points and repair of existing ones) and animal health, including the development of the infrastructure required for that purpose;
  - better integration of arable and livestock farming;
  - in the sphere of fisheries, modernizing fish-farming and developing aquaculture.
2. Other prerequisites for the development of production are:
  - the extension of secondary and tertiary back-up activities for agriculture, such as the manufacture, modernization and promotion of agricultural and rural equipment and other inputs and, where necessary, their importation;
  - the establishment or consolidation of agricultural savings and credit facilities adapted to local conditions in order to promote access to production factors for farmers;
  - the encouragement of all those policies and incentives for producers which are appropriate to local conditions with a view to greater productivity and to improving farmers' incomes.

#### ARTICLE 45

In order to ensure a return on output, agricultural co-operation shall contribute to:

- adequate means of preservation and suitable storage facilities for producers;
- effective control of disease, pests and other factors causing production losses;
- basic marketing arrangements underpinned by suitable organization of producers, with the necessary material and financial resources, and by adequate means of communication;



- flexible operation of marketing channels, taking account of every form of public or private initiative, to enable local markets, areas of the country with shortfalls and urban markets to be supplied, in order to cut down dependence on outside sources;
- facilities to prevent breaks in supplies (security storage) and guard against erratic price fluctuations (intervention storage);
- processing, packaging and marketing of products, particularly by developing artisanal and agro-industrial units, in order to adapt them to the trend of the market.

#### ARTICLE 46

Rural promotion measures shall involve:

- the organization of producers within associations or communities in order to enable them to derive more benefit from joint contracts and investment and jointly owned equipment;
- encouragement of the participation of women and of recognition of the active role they play as full partners in the rural production and economic development processes;
- the development of social and cultural activities (such as health, education and culture) essential for improving rural life styles;
- suitable extension services to train all farmers, both men and women;
- improvements in the training of instructors at all levels.

#### ARTICLE 47

Co-operation in agronomic and agrotechnical research shall contribute:

- to the development, in the ACP States, of domestic and regional research capacities suited to the local natural, social and economic conditions of crop and animal production, with special attention being paid to arid and semi-arid regions;
- in particular, to improving varieties and breeds, the nutritional quality of products and their packaging, and developing technology and processes accessible to the producers;
- to better dissemination of the results of research undertaken in an ACP or non-ACP State and applicable in other ACP States;
- to extension work in order to inform the greatest possible number of users of the results of such research;
- to promoting increased co-ordination of research, particularly at regional and international levels, in accordance with Article 152, and to implement appropriate operations to achieve this objective.

#### ARTICLE 48

Agricultural co-operation schemes shall be carried out in accordance with the detailed provisions and procedures laid down for development finance co-operation and in this context they may also cover the following:

(1) under the heading of technical co-operation:

- exchange of information between the Community and the ACP States and among the ACP States themselves (on, for example, water use, intensive production techniques and the results of research);
- exchange of experience between professionals working in such areas as credit and savings, co-operatives, mutual insurance, artisanal activities and small-scale industry in rural areas;

(2) under the heading of financial co-operation:

- supply of factors of production;
- support for market regulation bodies, on the basis of a co-ordinated approach to production and marketing problems;
- participation in the constitution of funds for agricultural credit facilities;

- opening of credit lines for farmers, farmers' trade organizations, artisans, women's groupings and small-scale industrial operators in rural areas, geared to their activities (such as supplies, primary marketing and storage), and also for associations implementing campaigns on specific themes;
- support for measures to combine industrial and trade skills in the ACP States and the Community within artisanal or industrial units, for the manufacture of inputs and equipment and for such purposes as the maintenance, packaging, storage, transport and processing of products.

#### ARTICLE 49

1. Community measures aimed at food security in the ACP States shall be conducted in the context of the food strategies or policies of the ACP States concerned and of the development objectives which they lay down.

They shall be implemented, in co-ordination with the instruments of this Convention, in the framework of Community policies and the measures resulting therefrom with due regard for the Community's international commitments.

2. In this context, multiannual indicative programming may be carried out with the ACP States which so wish, so that their food supplies can be better forecast.

#### ARTICLE 50

1. With regard to available agricultural products, the Community undertakes to ensure that export refunds can be fixed further in advance for all ACP States in respect of a range of products drawn up in the light of the food requirements expressed by those States.

Advance fixing shall be for one year and shall be applied each year throughout the life of this Convention, it being understood that the level of the refund will be determined in accordance with the methods normally followed by the Commission.

2. Specific agreements may be concluded with those ACP States which so request in the context of their food security policies.

#### ARTICLE 51

Food aid operations shall be decided on the basis of the rules and criteria adopted by the Community for all recipients of this type of aid.

Subject to those rules and to the Community's freedom of decision in this matter, food aid operations shall be governed by the following guidelines:

- (a) except in urgent cases, Community food aid, which shall be a transitional measure, must be integrated with the ACP States' development policies. This calls for consistency between food aid and other co-operation measures;
- (b) where products supplied as food aid are sold, they must be sold at a price which will not disrupt the domestic market. The resulting counterpart funds shall be used to finance the execution or running of projects or programmes with a major rural development component; these funds may also be used for all legitimate purposes approved by common agreement, taking into account Article 226(d);
- (c) where the products supplied are distributed free of charge, they must form part of nutrition programmes aimed in particular at vulnerable sections of the population or be delivered as remuneration for work;
- (d) food aid operations that form part of development projects or programmes or nutrition programmes may be planned on a multiannual basis;
- (e) as a matter of priority, the products supplied must meet the needs of the recipients. In the selection of such products, account should be taken in particular of the ratio of cost to specific nutritive value and of the effect the choice might have on consumer habits;

- (f) where in a recipient ACP State, the trend of the food situation is such as to make it desirable for food aid to be replaced in whole or in part by operations designed to consolidate the current trend, alternative operations may be implemented in the form of financial and technical assistance, in accordance with the relevant Community rules. These operations shall be decided upon at the request of the ACP State concerned;
- (g) with a view to providing products suited to the habits of consumers, speeding up the supply of products for emergency operations or helping to improve food security, food aid purchases may be made not only in the Community but also in the recipient country or in another ACP or other developing country, preferably in the same geographical region.

#### ARTICLE 52

In implementing this Chapter, special attention shall be paid, to assisting and enabling least-developed, landlocked and island ACP States to utilize fully the provisions of this Chapter. At the request of the States concerned, particular attention will be paid to:

- the specific difficulties of the least-developed ACP States in carrying out the policies or strategies they have established to strengthen their food self-sufficiency and food security. In this context, co-operation shall bear in particular on the productive sectors (including the supply of physical, technical and financial inputs), transport, marketing, packaging and the setting-up of storage infrastructure;
- establishing a security stock system in landlocked ACP States in order to avoid the risk of breaks in supply;
- diversifying agricultural commodities production and improving food security in the island ACP States.

#### ARTICLE 53

1. The Technical Centre for Agricultural and Rural Co-operation shall be at the disposal of the ACP States to provide them with better access to information, research, training and innovations in the spheres of agricultural and rural development and extension.

In carrying out its work within the framework of its responsibilities it shall operate in close co-operation with the institutions and bodies referred to in this Convention.

2. The tasks of the Centre shall be to:

- (a) assure, where so requested by the ACP States, the dissemination of scientific and technical information on methods and means of encouraging agricultural production and rural development, and also scientific and technical support for drawing up regional programmes in its own spheres of activity;
- (b) foster the development by ACP States, at national and regional level, of their own capacities for production, purchase and exchange of technical and scientific information on agriculture, rural development and fisheries;
- (c) refer ACP States' requests for information to bodies qualified to deal with them, or deal direct with such requests;
- (d) provide ACP national and regional documentation centres and research institutes with easier access to scientific and technical publications dealing with agricultural and rural development issues and to data banks in the Community and the ACP States;
- (e) in general help the ACP States to gain easier access to the results of work carried out by the national, regional and international bodies, more especially those qualified in the technical aspects of agricultural and rural development, based in the Community and in the ACP States, and maintain contact with those bodies;
- (f) foster the exchange of information between those engaged in agricultural and rural development, notably research workers, instructors, technicians and extension workers, on the results of agricultural and rural development operations;
- (g) sponsor and help organize meetings of specialists, research workers, planners and development personnel so that they may exchange experiences of specific ecological environments;

- (h) facilitate access by the ACP States' training and extension personnel to the information they need to carry out their tasks and refer requests for specific training to existing qualified bodies;
  - (i) help facilitate the adaptation of available technical and scientific information to the needs of the ACP States' departments responsible for development, extension services, and training including "functional literacy programmes" in rural areas;
  - (j) facilitate the dissemination of technical and scientific information for use in integration strategies of agricultural and rural development, by reference to the priority requirements of development.
3. In the performance of its tasks the Centre shall pay particular attention to the needs of the least-developed ACP States.
  4. To carry out its work, the Centre shall be supported by decentralized regional or national information networks. Such networks shall be built up gradually and efficiently as needs are identified with, as far as possible, the support of the most appropriate organizations and institutions.
  5. The Committee of Ambassadors shall be the supervisory authority of the Centre. It shall lay down the rules of operation and the procedures for the adoption of the Centre's budget. The budget shall be financed in accordance with the rules laid down in this Convention in respect of development finance co-operation.
  6. (a) The Centre shall be headed by a Director appointed by the Committee of Ambassadors.
  - (b) The Director of the Centre shall be assisted by staff recruited within the limit of the numbers budgeted for by the Committee of Ambassadors.
  - (c) The Director of the Centre shall report on its activities to the Committee of Ambassadors.
  7. (a) To provide the Director of the Centre with technical and scientific assistance in working out appropriate solutions to the problems encountered by the ACP States, notably to improve their access to information, technical innovation, research and development in the sphere of agricultural and rural development and to devise the Centre's action programmes, an advisory committee shall be set up, composed on a basis of parity of agricultural and rural development experts.
  - (b) The members of the Advisory Committee shall be appointed by the Committee of Ambassadors in accordance with the procedures and criteria determined by it.

## CHAPTER 2

### Drought and Desertification Control

#### ARTICLE 54

The ACP States and the Community recognize that certain ACP States are facing considerable difficulties as a result of endemic drought and growing desertification, which hold back all efforts at development, in particular those aimed at achieving the priority objective of food self-sufficiency and food security.

The two Parties agree that in a number of ACP States control of drought and desertification constitutes a major challenge on which depends the success of their development policy.

#### ARTICLE 55

The correction of this situation and the sustainable development of the countries affected or threatened by such disasters require a policy encouraging the restoration of the natural environment and of the balance between resources and the human and animal population, in particular through such means as improved harnessing and management of water resources, appropriate agriculture, agroforestry and reforestation schemes and control of the causes of desertification as well as of practices that engender it.

## ARTICLE 56

If a return to the natural balance is to be expedited, a drought and desertification control component in particular must be incorporated into all agricultural and rural development operations, such as:

1. —the extension of agroforestry systems combining farming and forestry, research and development activities to produce plant species that are more adapted to local conditions;  
—the introduction of suitable techniques aimed at increasing and maintaining the productivity of agricultural land, arable land and natural pastureland with a view to controlling the various forms of erosion;  
—the reclamation of land that has deteriorated, by means of reforestation or agricultural-land improvement, combined with maintenance schemes involving, as far as possible, the people and authorities concerned in order to safeguard the progress made;
2. the encouragement of measures to economize on wood as an energy source by stepping up research into, application of and information on new and renewable sources of energy such as wind, solar and biomass energy, and by the use of improved stoves with a greater heat yield;
3. the rational development and management of forestry resources by setting up at national or regional level, forestry management plans aimed at optimizing the exploitation of forestry resources;
4. the pursuit of ongoing campaigns to educate the people concerned to be aware of the phenomena of drought and desertification and to train them in the possible ways of controlling them;
5. an overall co-ordinated approach which, as a result of schemes such as those referred to in points 1 to 4, seeks to ensure the restoration of a suitable ecological balance between natural resources and the human and animal population, without prejudicing the objective of harmonious economic and social development.

## ARTICLE 57

The operations to be undertaken, where necessary with research backing, shall cover, *inter alia*:

1. improving man's knowledge of, and ability to forecast, desertification phenomena by observing developments in the field, by means, *inter alia*, of modern technologies such as remote sensing, by making use of results achieved and gaining a better understanding of the changes to the human environment in time and space;
2. making an inventory of water-tables and of their replenishment capacity with a view to better predictability of water supplies, using surface and ground water and improving management of these resources, in particular by means of dams or other appropriate developments for the purpose of satisfying the needs of people and animals, and improving weather forecasting;
3. establishing a system for the prevention and control of bush fires and deforestation.

## TITLE III

### Development of Fisheries

## ARTICLE 58

The ACP States and the Community recognize the urgent need to promote the development of fishery resources of ACP States both as a contribution towards the development of fisheries as a whole and as a sphere of mutual interest for their respective economic sectors.

Co-operation in this field shall promote the optimum utilization of the fishery resources of ACP States, while recognizing the rights of landlocked States to participate in the exploitation of sea fisheries and the right of coastal States to exercise jurisdiction over the living marine resources of their exclusive economic zones in conformity with current international law and notably the conclusions of the Third United Nations Conference on the Law of the Sea.

#### ARTICLE 59

To encourage the development of the exploitation of the fishery resources of the ACP States, all the mechanisms for assistance and co-operation provided for in this Convention, notably financial and technical assistance in accordance with the terms set out in Title III, Part Three shall be applied to fisheries.

The priority objectives of such co-operation shall be to:

- improve knowledge of the fisheries environment and its resources;
- increase the means of protecting fishery resources and monitoring their rational exploitation;
- increase the involvement of the ACP States in the exploitation of deep-sea fishery resources within their exclusive economic zones;
- encourage the rational exploitation of the fishery resources of the ACP States and the resources of high seas in which the ACP States and the Community share interests;
- increase the contribution of fisheries including aquaculture, non-industrial fishing and inland fisheries, to rural development, by giving importance to the role they play in strengthening food security, improving nutrition and the social and economic conditions of the communities concerned; this implies, *inter alia*, a recognition of and support for women's work at the post-harvest stage and in the marketing of fish;
- increase the contribution of fisheries to industrial development by increasing catches, output, processing and exports.

#### ARTICLE 60

Assistance from the Community for fisheries development shall include support in the following areas:

- (a) fisheries production, including the acquisition of boats, equipment and gear, the development of infrastructure for rural fishing communities and the fishing industry and support for aquaculture projects, notably by providing specific lines of credit to appropriate ACP institutions for onlending to the operators concerned;
- (b) fisheries management and protection, including the assessment of fish stocks and of aquaculture potential, the improvement of environmental monitoring and control and the development of ACP coastal States' capacities for a rational management of the fishery resources in their exclusive economic zones;
- (c) processing and marketing of fishery products, including the development of processing, collection, distribution and marketing facilities and operations; the reduction of post-harvest losses and the promotion of programmes to improve fish utilization and nutrition from fishery products.

#### ARTICLE 61

Particular attention shall be paid in fishery resource development co-operation to the training of ACP nationals in all areas of fisheries, to the development and strengthening of ACP research capabilities and to the promotion of intra-ACP and regional co-operation in fisheries management and development.

#### ARTICLE 62

In implementing Articles 60 and 61, special attention shall be given to enabling least-developed, landlocked and island ACP States to maximize their capabilities to manage their fishery resources.

#### ARTICLE 63

The ACP States and the Community recognize the need for direct or regional co-operation or, as appropriate, co-operation through international organizations, with a view to promoting conservation and the optimum use of the living resources of the sea.

#### ARTICLE 64

The Community and the ACP States recognize that coastal States exercise sovereign rights for the purpose of exploring, exploiting, conserving and managing the fishery resources of their respective exclusive economic zones in conformity with current international law. The ACP States recognize that there is a role for Community Member States' fishing fleets, operating lawfully in waters under ACP jurisdiction, in the development of ACP fishery potential and in economic development in general in the coastal ACP States. Accordingly, the ACP States declare their willingness to negotiate with the Community fishery agreements aimed at guaranteeing mutually satisfactory conditions for fishing activities of vessels flying the flag of one of the Member States of the Community.

In the conclusion or implementation of such agreements, the ACP States shall not discriminate against the Community or among the Member States, without prejudice to special arrangements between developing States within the same geographical area, including reciprocal fishing arrangements, nor shall the Community discriminate against ACP States.

#### ARTICLE 65

Where ACP States situated in the same subregion as territories to which the Treaty establishing the European Economic Community applies wish to engage in fishing activities in the corresponding fishing zone, the Community and the ACP States shall open negotiations with a view to concluding a fishery agreement in the spirit of Article 64, taking account of their specific situation in the region and of the objective of strengthening regional co-operation between those territories and the neighbouring ACP States.

#### ARTICLE 66

The Community and the ACP States recognize the value of a regional approach to fisheries access and shall support moves by ACP coastal States towards harmonized arrangements for access for fishing vessels.

#### ARTICLE 67

The Community and the ACP States agree to take all appropriate steps to ensure that the efforts undertaken in fisheries co-operation under this Convention shall be effective, taking into account notably the Joint declaration on the origin of fishery products.

As regards exports of fishery products to the markets of the Community, due account shall be taken of Article 358.

#### ARTICLE 68

The mutually satisfactory conditions referred to in Article 64 shall bear in particular on the nature and the scale of the compensation to be received by the ACP States concerned under bilateral agreements.

Compensation shall be additional to any allocation relating to projects in the fisheries sector pursuant to Title III, Part Three of this Convention.

Compensation shall be provided for partly by the Community as such and partly by the shipowners and shall take the form of financial compensation which may include licensing fees and, where appropriate, any other elements agreed upon by the parties to the fishery agreement, such as obligatory landing of part of the catch, employment of ACP nationals, the taking on board of observers, transfer of technology, research and training grants.

Compensation shall relate to the scale and value of the fishing opportunities provided in the exclusive economic zones of the ACP States concerned.

In addition, with regard to the fishing of highly migratory species, the particular character of such fisheries shall be taken into account in the respective obligations under the agreements, including the financial compensation.

The Community shall take all necessary measures to ensure that its vessels comply with the provisions of the agreements negotiated and with the laws and regulations of the ACP State concerned.

#### TITLE IV

##### Co-operation on Commodities

###### ARTICLE 69

ACP-EEC co-operation in the field of commodities shall take into account:

- the fact that the economies of a large number of ACP States are highly dependent on their exports of primary products;
- the deteriorating situation of their exports in most cases, mainly as a result of the downward trend in world prices;
- the structural nature of the difficulties in many commodity sectors both within the economies of the ACP States and at international level, in particular within the Community.

###### ARTICLE 70

The Community and the ACP States recognize the need for joint efforts aimed at resolving the structural difficulties in many commodity sectors and they take as the main objectives of their co-operation in this field:

- diversification, both horizontal and vertical, of the ACP economies, in particular through the development of processing, marketing, distribution and transport (PMDT) and,
- improvement of the competitiveness of the ACP States' commodities on world markets through the reorganization and rationalization of their production, marketing and distribution activities.

The Community and the ACP States undertake to employ all appropriate means to enable them to go as far as possible in the attainment of these objectives; to that end, they agree to make co-ordinated use of the range of instruments and resources of this Convention.

###### ARTICLE 71

In pursuit of the objectives set out in Article 70, co-operation in the field of commodities, especially PMDT, shall be planned and implemented in compliance with the priorities decided by the ACP States and in support of policies and strategies drawn up by these States.

###### ARTICLE 72

Co-operation operations in the field of commodities shall be directed towards developing international, regional and national markets; they shall be carried out in accordance with the detailed rules and procedures laid down in the Convention, notably those relating to development finance co-operation. In this context, they may also cover:

1. the enhancement of human resources, including in particular:
  - training programmes and courses for operators in the sectors concerned;
  - support for national or regional schools and training institutes specializing in the sector;



2. the fostering of investments by EEC and ACP economic operators in the sector concerned, notably by means of:
  - information and awareness-raising campaigns directed at operators likely to invest in activities that diversify and add value to ACP commodities;
  - a more dynamic use of risk capital for firms wishing to invest in these PMDT activities;
  - utilization of the pertinent provisions in investment promotion, protection, financing and support;
3. the development and improvement of the infrastructure necessary for activities in the sector concerned, and notably transport and telecommunications networks.

#### ARTICLE 73

In pursuit of the objectives set out in Article 70, the Contracting Parties shall attach particular importance to:

- ensuring that market signals, whether national, regional or international, are duly taken into account;
- taking account of the economic and social impact of the operations carried out;
- ensuring a greater consistency at regional and international level between the strategies pursued by the various ACP States concerned;
- seeking an effective distribution of resources between the various activities and operators in the production sectors concerned.

#### ARTICLE 74

The Community and the ACP States recognize the need to ensure a better operation of international commodity markets and to increase market transparency.

They confirm their willingness to step up consultations between the ACP States and the Community in the international fora and organizations dealing with commodities.

To this end, exchanges of views shall take place at the request of either Party:

- regarding the operation of existing international agreements or specialized intergovernmental working parties with the aim of improving them and making them more effective, consistent with market trends;
- when it is proposed to conclude or renew an international agreement or set up a specialized intergovernmental working party.

The aim of such exchanges of views shall be to take account of the respective interests of each Party; they may take place, where necessary, in the framework of the Commodities Committee.

#### ARTICLE 75

The Community and the ACP States agree to set up a Commodities Committee, which shall serve in particular to help find solutions to structural problems relating to commodities.

The tasks of the Commodities Committee shall be to monitor the general implementation of the Convention in the commodities sector, taking account of the Parties' mutual interests, and, in particular:

- (a) to examine any general problems relating to ACP-EEC trade in these products which may be submitted to it by the relevant subcommittees set up under the Convention;
- (b) to recommend measures that will solve these problems and develop the competitiveness of the production and export systems;
- (c) to hold exchanges of views and information on the short- and medium-term prospects and forecasts for production, consumption and trade.

## ARTICLE 76

The Commodities Committee shall meet at least once a year at ministerial level. Its rules of procedure shall be laid down by the Council of Ministers. It shall be composed of representatives of the ACP States and of the Community appointed by the Council of Ministers. Its work shall be prepared by the Committee of Ambassadors in accordance with the procedures laid down in the rules of procedure of the Commodities Committee.

## TITLE V

### **Industrial Development, Manufacturing and Processing**

## ARTICLE 77

In order to facilitate the attainment of the industrial development objectives of the ACP States, it is important to ensure that an integrated and sustainable development strategy, which links activities in different sectors to each other, is evolved. Thus sectoral strategies for agricultural and rural development, manufacturing, mining, energy, infrastructure and services should be designed in such a way as to foster interlinkages within and between economic sectors with a view to maximizing local value added and creating where possible, an effective capacity to export manufactured products, while ensuring the protection of the environment and natural resources.

In pursuit of these objectives the Contracting Parties shall have recourse to the provisions on trade promotion for ACP products and private investments, in addition to the specific provisions on industrial co-operation.

## ARTICLE 78

Industrial co-operation, as a key instrument for industrial development, shall have as its objectives:

- (a) the creation of the basis of and framework for effective co-operation between the Community and the ACP States in the fields of manufacturing and processing, mineral resources development, energy resources development, transport and communications;
- (b) the promotion of conditions conducive to industrial enterprise development, and local and external investment;
- (c) improvement of capacity utilization and rehabilitation of existing industrial undertakings which are potentially viable, in order to restore the productive capacities of ACP economies;
- (d) fostering the creation of and the participation in enterprises by ACP nationals, especially those of a small and medium-size nature that produce and/or use local inputs; promotion of new and strengthening of existing enterprises;
- (e) support for the establishment of new industries to supply the local market in a cost-effective manner and ensure the growth of the non-traditional export sector in order to increase foreign exchange earnings, provide employment opportunities and an increase in real incomes;
- (f) promoting increasingly close relations in the industrial field between the Community and the ACP States, and in particular further encouraging the speedy establishment of ACP-EEC industrial joint ventures;
- (g) promoting business associations in ACP States as well as other institutions for industrial enterprise and business development.

## ARTICLE 79

The Community shall assist the ACP States in the improvement of their institutional framework, reinforcement of their financing institutions and the establishment, rehabilitation and improvement of industry-related infrastructure. The Community shall equally assist the ACP States in their efforts to integrate industrial structures at regional and inter-regional level.

#### ARTICLE 80

On the basis of a request from an ACP State, the Community shall provide the assistance required in the field of industrial training at all levels, bearing notably on the evaluation of industrial training needs and the establishment of corresponding programmes, the setting-up and operation of national or regional ACP industrial training establishments, training for ACP nationals in appropriate establishments, on-the-job training both in the Community and in the ACP States and also co-operation between industrial training establishments in the Community and in the ACP States, and between the latter and those of other developing countries.

#### ARTICLE 81

In order to achieve the objectives of industrial development, the Community shall assist in the establishment and expansion of all types of viable industry which have been identified by the ACP States as important in terms of their industrialization objectives and priorities.

In this context the following areas merit particular attention:

- (i) manufacturing and processing of primary products:
  - (a) industries processing, on a national or regional basis, raw materials for export;
  - (b) industries based on local needs and resources, focused on domestic and regional markets and mainly small and medium-sized industries geared to the modernization of agriculture, the efficient processing of agricultural products and the manufacturing of agricultural inputs and tools;
- (ii) engineering, metallurgical and chemical industries:
  - (a) engineering enterprises for the production of tools and equipment primarily tailored to maintaining the existing plant and equipment in the ACP States. These enterprises should, as a matter of priority, support the manufacturing and processing sector, the major export sectors, and small and medium-sized enterprises directed at satisfying basic needs;
  - (b) metallurgical industries based on the mining products of the ACP States, aimed at the secondary processing of mining products to supply ACP engineering and chemical industries;
  - (c) chemical industries, particularly on a small and medium scale, aimed at the secondary processing of mineral products to supply the other branches of industry, and also the agricultural and health sectors;
- (iii) industrial rehabilitation and capacity utilization: the restoration, upgrading, reorganization, restructuring and maintenance of existing potentially viable industrial capacities. Special emphasis should be put in this respect on industries with a low import content that provide up-stream and down-stream linkages and have a favourable effect on employment. Rehabilitation activities should be targeted at the creation of conditions necessary to make enterprises being rehabilitated self-sustaining.

#### ARTICLE 82

The Community shall assist the ACP States to develop, during the period of application of this Convention, as a matter of priority, viable industries, as defined in Article 81, in accordance with the capacities and decisions of each ACP State and their respective endowments taking into account the adjustment of industrial structures taking place between the Contracting Parties and throughout the world.

#### ARTICLE 83

The Community shall contribute in a spirit of mutual interest to the development of ACP-EEC and intra-ACP co-operation between enterprises by way of information and industrial promotion activities.

The aim of such activities shall be to intensify the regular exchange of information, organize the contacts required in the industrial sphere between industrial policy-makers, promoters and economic operators from the Community and the ACP States, carry out studies, notably feasibility studies, facilitate the establishment and operation of ACP industrial promotion bodies and foster joint investment, subcontracting arrangements and any other form of industrial co-operation between enterprises in the Member States of the Community and in the ACP States.

#### ARTICLE 84

The Community shall contribute to the establishment and development of small and medium-sized enterprises in the artisanal, commercial, service and industrial sectors in view of the essential role that these enterprises play in the modern and informal sectors in building up a diversified economic fabric and in the general development of the ACP countries, and in view of the advantages they offer as regards the acquisition of skills, the integrated transfer and adaptation of appropriate technology and opportunities for taking the best advantage of local manpower. The Community shall also help with sectoral evaluation and the establishment of action programmes, with the setting-up of appropriate infrastructure, the establishment, strengthening and operation of institutions providing information, promotion, extension, training, credit or guarantee and transfer of technology facilities.

The Community and the ACP States shall encourage co-operation and contact between small and medium-sized enterprises in the Member States and the ACP States.

#### ARTICLE 85

With a view to assisting the ACP States to develop their technological base and indigenous capacity for scientific and technological development and facilitating the acquisition, transfer and adaptation of technology on terms that will seek to bring about the greatest possible benefits and minimize costs, the Community, through the instruments of development finance co-operation, is prepared, *inter alia*, to contribute to:

- (a) the establishment and strengthening of industry-related scientific and technical infrastructure in the ACP States;
- (b) the drawing-up and implementation of research and development programmes;
- (c) the identification and creation of opportunities for collaboration among research institutes, institutions of higher learning and enterprises of ACP States, the Community, the Member States and other countries;
- (d) the establishment and promotion of activities aimed at the consolidation of appropriate indigenous technology and the acquisition of relevant foreign technology, in particular that of other developing countries;
- (e) the identification, evaluation and acquisition of industrial technology including the negotiation on favourable terms and conditions of foreign technology, patents and other industrial property, in particular through financing or through other suitable arrangements with firms and institutions within the Community;
- (f) providing ACP States with advisory services for the preparation of regulations governing the transfer of technology and for the supply of available information, in particular on the terms and conditions of technology contracts, the types and sources of technology, and the experience of ACP States and other countries with the use of certain types of technology;
- (g) the promotion of technology co-operation between ACP States and between them and other developing countries, including support to research and development units in particular at regional level, in order to make the best use of any particularly appropriate scientific and technical facilities they may possess;
- (h) facilitating, wherever possible, access to and use of documentary and other data sources available in the Community.

#### ARTICLE 86

In order to enable the ACP States to obtain full benefit from the trade arrangements and other provisions of this Convention, promotion schemes shall be undertaken for the marketing of ACP States' industrial products on both Community and other external markets, and also in order to stimulate and develop trade in industrial products among the ACP States. Such schemes shall cover market research, marketing and the quality and standardization of manufactured goods, in accordance with Articles 229 and 230 and taking into account Articles 135 and 136.

#### ARTICLE 87

1. A Committee on Industrial Co-operation, supervised by the Committee of Ambassadors, shall:

- (a) review progress made with the overall industrial co-operation programme resulting from this Convention and, where appropriate, submit recommendations to the Committee of Ambassadors; in this framework it shall examine and give its opinion on the reports referred to in Article 327 concerning the progress of industrial co-operation and the growth of investment flows, and regularly monitor the mechanics of the interventions undertaken by the European Investment Bank, hereinafter referred to as "the Bank", the Commission, the Centre for the Development of Industry, hereinafter referred to as "the CDI" and the ACP authorities responsible for the implementation of industrial projects in order to ensure the best possible co-ordination;
- (b) examine problems and policy issues in the field of industrial co-operation submitted to it by the ACP States or by the Community, and make any appropriate proposals;
- (c) organize, at the request of the Community or of the ACP States, a review of trends in industrial policies of the ACP States and of the Member States as well as developments in the world industrial situation with a view to exchanging information necessary for improving co-operation in and facilitating the industrial development and related mining and energy activities of the ACP States;
- (d) establish, on a proposal of the Executive Board, the general strategy of the CDI referred to in Article 89, appoint the members of the Advisory Council, appoint the director and deputy director, appoint the two auditors, apportion on an annual basis the overall financial allocation provided for in Article 3 of the Financial Protocol and approve the budget and annual accounts;
- (e) examine the CDI's annual report and any other report presented by the Advisory Council or the Executive Board in order to assess whether the CDI's activities are in conformity with the objectives assigned to it in this Convention, report to the Committee of Ambassadors and, through it, to the Council of Ministers and carry out such other duties as may be assigned to it by the Committee of Ambassadors.

2. The composition of the Committee on Industrial Co-operation and the detailed rules for its operation shall be determined by the Council of Ministers. The Committee shall meet at least twice a year.

#### ARTICLE 88

A joint Advisory Council, composed of 24 members drawn from the business world or experts on industrial development, with representatives of the Commission, the Bank and the ACP Secretariat present as observers, shall allow the Committee on Industrial Co-operation to take into account the point of view of industrial operators concerning matters referred to in Article 87(1)(a), (b) and (c). The Advisory Council shall meet formally once a year.

#### ARTICLE 89

The CDI shall help to establish and strengthen industrial enterprises in the ACP States, notably by encouraging joint initiatives by economic operators of the Community and the ACP States.

As a practical operational instrument, the CDI shall give priority to the identification of industrial operators for viable projects, assist in the promotion and implementation of those projects that meet the needs of ACP States, taking special account of domestic and external market opportunities for the processing of local raw materials while making optimum use of the ACP States' endowments by way of factors of production. Assistance shall also be given to the presentation of such projects to the financing institutions.

In carrying out the above tasks, the CDI shall take care to operate selectively by giving priority to small and medium-sized industrial enterprises and rehabilitation operations, and restoring existing industrial capacities to full utilization. It shall place special emphasis on opportunities for joint ventures and subcontracting. In implementing these tasks, the CDI shall also pay special attention to the objectives referred to in Article 97.

#### ARTICLE 90

1. In undertaking the tasks referred to in Article 89 the CDI shall operate by giving priority to viable projects. In particular, it shall:

- (a) identify, appraise, evaluate, promote and assist in the implementation of economically viable industrial projects of the ACP States;
- (b) carry out studies and appraisals aimed at identifying practical opportunities for industrial co-operation with the Community in order to promote the industrial development of the ACP States, and facilitating the implementation of appropriate schemes;
- (c) supply information and also specific advisory services and expertise, including feasibility studies, with a view to expediting the establishment and/or restoration of industrial enterprises;
- (d) identify potential partners of the ACP States and the Community for joint investment operations and assist in the implementation and follow-up;
- (e) identify and provide information on possible sources of financing, assist in the presentation for financing, and, where necessary, assist in the mobilization of funds from these sources for industrial projects in ACP States;
- (f) identify, collect, evaluate and supply information and advice on the acquisition, adaptation and development of appropriate industrial technology relating to specific projects and, where appropriate, assist in the setting-up of experimental or demonstration schemes.

2. In order to improve the attainment of its objectives, the CDI, in addition to its main activities, may also pursue the following:

- (a) carry out studies, market research and evaluation work and gather and disseminate all relevant information on the industrial co-operation situation and opportunities and notably on the economic environment, the treatment which potential investors may expect and the potential of viable industrial projects;
- (b) help, in appropriate cases, to promote the marketing of ACP manufactures on their domestic markets and on the markets of the other ACP States and the Community in order to encourage optimum exploitation of installed or projected industrial capacity;
- (c) identify industrial policy-makers, promoters and economic and financial operators in the Community and ACP States, and organize and facilitate contacts and meetings of all kinds between them;
- (d) identify, on the basis of needs indicated by ACP States, opportunities in industrial training, chiefly on the job, to meet the requirements of existing and planned industrial undertakings in ACP States and, where necessary, assist in the implementation of appropriate schemes;
- (e) gather and disseminate all relevant information concerning the industrial potential of the ACP States and trends of industrial sectors in the Community and the ACP States;
- (f) promote the subcontracting and also the expansion and consolidation of regional industrial projects.

#### ARTICLE 91

The CDI shall be headed by a director assisted by a deputy director, recruited on the basis of technical skills and management experience, both of whom shall be appointed by the Committee on Industrial Co-operation. The management of the CDI shall implement the guidelines laid down by the Committee on Industrial Co-operation, and shall be answerable to the Executive Board.

#### ARTICLE 92

1. A joint Executive Board shall:
  - (a) advise and back up the director in providing impetus and motivation in managing the CDI and shall ensure that the guidelines laid down by the Committee on Industrial Co-operation are implemented satisfactorily;
  - (b) on a proposal from the director of the CDI,
    - (i) approve:
      - multiannual and annual programmes of activities,
      - the annual report,
      - the organizational structures, staffing policy and establishment plan, and
    - (ii) adopt the budgets and annual accounts for submission to the Committee on Industrial Co-operation;
  - (c) take decisions on management proposals related to these issues;
  - (d) transmit an annual report to the Committee on Industrial Co-operation and report on any problems arising in connection with the points referred to in (c).
2. The Executive Board shall be composed of six persons with substantial experience in the private or public industrial or banking sectors or in industrial development planning and promotion. They shall be chosen by the Committee on Industrial Co-operation on the grounds of their qualifications among nationals of the States Party to this Convention and appointed by that Committee according to the procedures laid down by it. A representative of the Commission, of the Bank and of the ACP Secretariat shall take part in the Board's proceedings as observers. In order to ensure a close follow-up of CDI activities, the Board shall meet at least once every two months. The secretariat shall be provided by the Centre.

#### ARTICLE 93

1. The Community shall contribute to the financing of the CDI's budget by means of a separate allocation in accordance with the Financial Protocol annexed hereto.
2. Two auditors appointed by the Committee on Industrial Co-operation shall audit the financial management of the CDI.
3. The CDI's statute, financial and staff regulations and rules of procedure shall be adopted by the Council of Ministers on a proposal from the Committee of Ambassadors after the entry into force of this Convention.

#### ARTICLE 94

The Centre shall step up its operational presence in the ACP States, notably as regards identification of projects and promoters and assistance in the submission of applications for financing.

It shall do this in accordance with procedures proposed by the Executive Board, taking account of the need to decentralize activities.

#### ARTICLE 95

The Commission, the Bank and the CDI shall maintain close operational co-operation in the context of their respective responsibilities.

## ARTICLE 96

Members of the Advisory Council, the Executive Board and the director and deputy director of the CDI shall be appointed for a period of no longer than five years, subject to a reservation in the case of the Executive Board that the situation be reviewed mid-term.

## ARTICLE 97

1. In implementing this Title, the Community shall pay special attention to the specific needs and problems of the least-developed, landlocked and island ACP States in order to establish the basis for their industrialization (the formulation of industrial policies and strategies, economic infrastructure and industrial training), notably with a view to adding value to raw materials and other local resources in the following fields in particular:

- processing of raw materials;
- development, transfer and adaptation of technologies;
- development and financing of schemes in favour of small and medium-sized enterprises;
- development of industrial infrastructure and energy and mining resources;
- adequate training in the scientific and technical areas;
- production of equipment and inputs for the rural sector.

Such operations may be implemented with assistance from the CDI.

2. At the request of one or more least-developed ACP States, the CDI shall grant special assistance for identifying on-the-spot industrial promotion and development possibilities, notably in raw materials processing and the production of equipment and inputs for the rural sector.

## ARTICLE 98

In order to implement industrial co-operation, the Community shall help carry out programmes, projects and operations submitted to it on the initiative or with the agreement of the ACP States. To this end, it shall use all the means provided in this Convention, notably those at its disposal under development finance co-operation and, in particular, those which are the responsibility of the Bank, without prejudice to operations to assist ACP States in mobilizing finance from other sources.

Industrial co-operation programmes, projects and operations which involve Community financing shall be implemented in conformity with Title III, Part Three, of this Convention, having regard to the particular characteristics of aid operations in the industrial sector.

## TITLE VI

### **Mining Development**

## ARTICLE 99

The main objectives of mining development shall be to:

- exploit all types of mineral resources in a way which ensures the profitability of mining operations in both export and local markets, while also meeting environmental concerns, and
- enhance the potential of human resources,

with a view to promoting and expediting diversified economic and social development.

The Contracting Parties stress their mutual dependence in the sector and agree to use in a co-ordinated fashion this Convention's various instruments in this field and also other Community instruments where appropriate.

## ARTICLE 100

At the request of one or more ACP States, the Community shall carry out technical assistance or training activities to strengthen their scientific and technical capacity in the field of geology and mining in order that they may derive greater benefit from available know-how and direct their exploration and prospecting programmes accordingly.



#### ARTICLE 101

In order to facilitate the development of the mining resources of the ACP States concerned, having regard to national and external economic considerations and with a view to diversification, the Community shall co-operate as appropriate, through its technical and financial assistance programmes, with the ACP States in their prospecting and exploration efforts at all stages, both onshore and on the continental shelf as defined in international law.

Where appropriate, the Community shall also give its technical and financial assistance to the establishment of national or regional exploration funds in ACP States.

#### ARTICLE 102

With the aim of supporting efforts to exploit the ACP States' mining resources, the Community shall contribute towards the support of projects to rehabilitate, maintain, rationalize and modernize economically viable production units in order to make them more operational and more competitive.

It shall also contribute to the identification, drawing-up and implementation of new viable projects to an extent compatible with investment and management capacities as well as market trends, taking particular account of the financing of feasibility and pre-investment studies.

Particular attention shall be accorded to:

- operations to enhance the role of small and medium-scale projects, so promoting local mining enterprises with particular emphasis on minerals for industry and agriculture, destined notably for the domestic or regional markets, and also new products, and
- operations to protect the environment.

Co-operation shall also support the efforts of the ACP States to:

- build up supporting infrastructure;
- take measures to ensure that mining development makes the greatest possible contribution to the producer countries' social and economic development, such measures including the optimal use of mining revenue and the integration of mining development into industrial development and into an appropriate policy of land-use planning;
- encourage European and ACP investment;
- promote regional co-operation.

#### ARTICLE 103

In order to contribute to the objectives set out above, the Community shall be prepared to give its technical and financial assistance to help with the exploitation of the ACP States' mining potential in accordance with the procedures peculiar to each of the instruments at its disposal and according to the provisions of this Convention.

In the sphere of research and investment preparatory to the launching of mining projects, the Community may give assistance in the form of risk capital, possibly in conjunction with contributions of capital from the ACP States concerned and other sources of financing, in accordance with the procedures laid down in Article 234.

The resources referred to in these provisions may be supplemented, for projects of mutual interest, by:

- (a) other Community financial and technical resources;
- (b) action aimed at the mobilization of public and private capital, including co-financing.

#### ARTICLE 104

The Bank may, in accordance with its Statute, commit its own resources on a case-by-case basis beyond the amount fixed in the Financial Protocol in mining investment projects recognized by the ACP State concerned and by the Community as being of mutual interest.

## TITLE VII

### Energy Development

#### ARTICLE 105

In view of the seriousness of the energy situation in the majority of the ACP States, owing partly to the crisis caused in many countries by dependence on imported petroleum products and the increasing scarcity of fuelwood, and in view of the effects the use of fossil fuels have on the climate, the ACP States and the Community agree to co-operate in this area with a view to finding solutions to their energy problems.

In ACP-EEC co-operation particular emphasis shall be placed on energy programming, operations for saving and making efficient use of energy, reconnaissance of energy potential and the economically and technically appropriate promotion of new and renewable sources of energy.

#### ARTICLE 106

The Community and the ACP States recognize the mutual benefits of co-operation in the field of energy. Such co-operation shall promote the development of the ACP States' conventional and non-conventional energy potential and their self-sufficiency.

The main objectives of energy development shall be to:

- (a) promote economic and social development by exploiting and developing domestic and regional energy resources in an appropriate manner from the technical, economic and environmental viewpoints;
- (b) make energy production and use more efficient and, where the potential exists, increase energy self-sufficiency;
- (c) encourage increased use of alternative, new and renewable energy sources;
- (d) improve living conditions in urban, outlying and rural areas and propose solutions to these areas' energy problems that are appropriate to local needs and resources;
- (e) protect the natural environment by conserving biomass resources, particularly fuelwood, by encouraging alternative solutions, improving consumption techniques and habits, and using energy and energy resources in a rational and sustainable manner.

#### ARTICLE 107

In order to attain the abovementioned objectives, energy co-operation schemes may, at the request of one or more of the ACP States concerned, be focused on:

- (a) collection, analysis and dissemination of relevant information;
- (b) strengthening the ACP States' management and control of their energy resources in line with their development objectives in order to enable them to appraise energy demand and supply options and to achieve strategic energy planning, *inter alia* by supporting energy programming and providing technical assistance for departments responsible for the planning and execution of energy policies;
- (c) analysing the energy implications of development projects and programming, taking account of the energy savings required and of opportunities for primary source substitution; in this context, operations shall be designed to increase the role played by new and renewable resources, particularly in rural areas, through programmes and projects tailored to local needs and resources;
- (d) implementing suitable programmes involving small and medium-sized energy development projects, particularly those aimed at saving and providing alternatives for fuelwood; in this context, operations shall be designed to resolve as swiftly as possible the problems caused by overconsumption of fuelwood by making domestic energy use more efficient in both rural and urban areas, encouraging the use of alternative sources for domestic use, particularly in urban areas, and developing plantations of suitable fuelwood species;

- (e) enhancing investment potential for the exploration and development of domestic and regional energy sources as well as for the development of sites of exceptional energy production permitting the establishment of energy-intensive industry;
- (f) promoting research, adaptation and dissemination of appropriate technology as well as the training needed to meet energy-related manpower needs in the energy sector;
- (g) stepping up the ACP States' research and development activities, particularly as regards the development of new and renewable sources of energy;
- (h) upgrading the basic infrastructure necessary for the production, transmission, transport and distribution of energy with particular emphasis on rural electrification;
- (i) encouraging co-operation between ACP States in the energy sector, notably the extension of electricity distribution grids between ACP countries and co-operation between those States and other, neighbouring States receiving Community aid.

#### ARTICLE 108

In order to contribute to the objectives set out above, the Community shall be prepared to give its technical and financial assistance to help with the exploitation of the ACP States' energy potential in accordance with the procedures peculiar to each of the instruments at its disposal and according to the provisions of this Convention.

In the sphere of research and investment preparatory to the launching of energy projects, the Community may give assistance in the form of risk capital, possibly in conjunction with contributions of capital from the ACP States concerned and other sources of financing, in accordance with the procedures laid down in Article 234.

The resources referred to in these provisions may be supplemented, for projects of mutual interest, by;

- (a) other Community financial and technical resources;
- (b) action aimed at the mobilization of public and private capital, including co-financing.

#### ARTICLE 109

The Bank may, in accordance with its Statute, commit its own resources on a case-by-case basis beyond the amount fixed in the Financial Protocol in energy investment projects recognized by the ACP States concerned and by the Community as being of mutual interest.

### TITLE VIII

#### Enterprise Development

#### ARTICLE 110

1. The Community and the ACP States stress that:
  - (i) enterprises constitute one of the main instruments for achieving the objectives of strengthening the economic fabric, encouraging inter-sectoral integration and increasing employment, incomes and the level of skills;
  - (ii) present ACP efforts to restructure their economies should be complemented by efforts to strengthen and enlarge their productive base. The enterprise sector should play an important part in the ACP States' strategies to revive growth;
  - (iii) a stable and propitious environment should be created together with an effective domestic financial sector with a view to reinvigorating the enterprise sector in the ACP States and to encouraging European investment;
  - (iv) the private sector needs to be made more dynamic and play a greater role, in particular through small and medium-sized enterprises, which are better suited to conditions in the ACP economies. Micro-firms and crafts should equally be encouraged and supported;

- (v) private foreign investors complying with the objectives and priorities of ACP-EEC development co-operation should be encouraged to participate in the development efforts of the ACP States. Fair and equitable treatment should be accorded to such investment as well as a propitious, secure and predictable investment climate;
- (vi) the fostering of ACP entrepreneurship is crucial for unlocking the considerable potential of the ACP States.

2. Efforts should be made to channel an increased proportion of the Convention's financial resources both to the encouragement of entrepreneurship and investment and towards directly productive activities.

#### ARTICLE 111

In pursuit of the abovementioned objectives, the Contracting Parties recognize the need to utilize the full range of instruments provided for by this Convention, including technical assistance, in the following areas with a view to sustaining private sector development:

- (a) support for the improvement of the legal and fiscal framework for business, and development of a greater role for professional organizations and chambers of commerce in the process of enterprise development;
- (b) direct assistance for the creation and the development of business (specialized business start-up services; assistance for the redeployment of ex-public sector employees; assistance for technology transfers and development; management services and market research);
- (c) the development of services in support of the enterprise sector so as to provide enterprises with advisory services in the legal, technical and managerial fields;
- (d) specific programmes to training and developing the capacity of individual entrepreneurs, particularly in the small-scale and informal sectors.

#### ARTICLE 112

In order to support the development of the savings and domestic financial sectors, the following areas of action merit special attention;

- (a) assistance for the mobilization of domestic savings and the development of financial intermediaries;
- (b) technical assistance for the restructuring and reform of financial institutions.

#### ARTICLE 113

With a view to assisting enterprise development in ACP States, the Community shall provide technical and financial assistance, subject to the conditions laid down in the development finance co-operation Title.

### TITLE IX

#### Development of Services

##### CHAPTER 1

#### Objectives and Principles of Co-operation

##### ARTICLE 114

1. The Community and the ACP States recognize the importance of services in the formulation of development policies and the need to step up co-operation in this sphere.
2. The Community shall support the ACP States' efforts to increase their domestic capacity to provide services with a view to improving the working of their economies, relieving balance of payment constraints and stimulating the process of regional integration.

3. The object is to ensure that the ACP States derive maximum benefit from the provisions of this Convention, at national and regional level, and to enable them to:

- participate under the most favourable conditions in Community, domestic, regional and international markets by diversifying the range and increasing the value and volume of ACP States' trade in goods and services;
- increase their collective capacity by means of greater economic integration and consolidation of functional co-operation or co-operation on specific themes;
- stimulate enterprise development, notably by encouraging ACP-EEC investment in services, with a view to creating employment, generating and distributing revenue and facilitating the transfer and adaptation of technology to specific ACP needs;
- derive maximum benefit from national or regional tourism and improve their participation in world tourism;
- set up the transport and communications networks and informatics and telematics systems needed for their development;
- step up vocational training activities and transfer of know-how in view of the determining role of human resources in the development of services.

4. In pursuit of these aims, the Contracting Parties shall have recourse, in addition to the specific provisions on services, to those on trade, trade promotion, industrial development, investment and education and training.

#### ARTICLE 115

1. *In view of the wide range of services and their unequal contribution to development, and with a view to maximizing the impact of Community aid on the development of ACP States, the two Parties agree to pay particular attention to services necessary for their economies in the following areas:*

- services that support economic development;
- tourism;
- transport, communications and information technology.

2. *In order to implement co-operation in services, the Community shall help carry out programmes, projects and operations submitted to it on the initiative of the ACP States. To this end, it shall use all the means provided for in this Convention, notably those at its disposal under development finance co-operation, including those which are the responsibility of the Bank.*

#### ARTICLE 116

*In the field of the development of services, particular attention shall be given to the specific needs of landlocked and island ACP States arising from their geographic situation and also to the economic situations of least-developed ACP States.*

### CHAPTER 2

#### **Services that Support Economic Development**

#### ARTICLE 117

*In pursuit of co-operation objectives in this sector, co-operation shall concern marketed services, without, however, this leading to neglect of certain para-statal services required to improve the economic environment, such as customs computerization, by giving priority to the following services:*

- services that support foreign trade;
- services required by the business sector;
- services that support regional integration.

## ARTICLE 118

To help restore the ACP States' external competitiveness, co-operation in the field of services shall give priority to services that support external trade, the scope of which is as follows:

- (i) the creation of appropriate infrastructure for trade, in particular through operations to improve external trade statistics, automation of customs procedures, port and airport management and the establishment of closer links between the various protagonists in trade, including exporters, trade financing bodies, customs and central banks;
- (ii) the promotion of specifically trade-oriented services such as trade promotion measures that are also applicable to services;
- (iii) the development of other external trade-linked services such as trade financing and clearing and payment facilities, and access to information networks.

## ARTICLE 119

To foster a strengthening of the economic fabric of ACP States, taking account of the provisions on enterprise development, particular attention shall be paid to the following areas:

- (i) business advisory services to improve the running of firms, notably by facilitating access to services in the fields of management, accountancy, information technology, legal advice, tax consultancy and finance;
- (ii) the setting-up of adequate, appropriate and flexible business financing facilities to stimulate the growth or setting-up of firms in the field of services;
- (iii) strengthening the ACP States' capacity in financial services, technical assistance for developing insurance and credit institutions in the field of trade development and promotion.

## ARTICLE 120

To underpin economic integration designed to create viable economies, and in view of the provisions on regional co-operation, particular attention shall be given to the following areas:

- (i) services to support trade in goods between ACP States through trade measures such as market studies;
- (ii) services required for the expansion of trade in services between ACP States with a view to enhancing their complementarity, notably by extending traditional trade promotion measures, adapted where necessary to the services sector;
- (iii) the creation of regional centres of services aimed at supporting specific economic sectors or jointly implemented sectoral policies, notably through the development of modern communications and information networks and computerized data banks.

## CHAPTER 3

### Tourism

## ARTICLE 121

Recognizing the real importance of the tourist industry for the ACP States, the Contracting Parties shall implement measures and operations to develop and support tourism. These measures shall be implemented at all levels, from the identification of the tourist product to the marketing and promotion stage.

The aim shall be to support the ACP States' efforts to derive maximum benefit from national, regional and international tourism in view of tourism's impact on economic development and to stimulate private financial flows from the Community and other sources into the development of tourism in the ACP States. Particular attention shall be given to the need to integrate tourism into the social, cultural and economic life of the people.

## ARTICLE 122

Specific tourism development measures shall aim at the definition, adaptation and development of appropriate policies at national, regional, subregional and international levels. Tourism development programmes and projects shall be based on these policies on the basis of the following four components:

- (a) Human resources and institutional development, *inter alia*:
  - professional management development in specific skills and continuous training at appropriate levels in the private and public sectors to ensure adequate planning and development;
  - establishment and strengthening of tourism promotion centres;
  - education and training for specific segments of the population and public/private organizations active in the tourism sector, including personnel involved in the support sector of tourism;
  - intra-ACP co-operation and exchanges in the fields of training, technical assistance and the development of institutions;
- (b) Product development, *inter alia*:
  - identification of the tourism product, development of non-traditional and new tourism products, adaptation of existing products including the preservation and development of cultural heritage, ecological and environmental aspects, management, protection and conservation of flora and fauna, historical, social and other natural assets, development of ancillary services;
  - promotion of private investment in the tourist industry of ACP States, including the creation of joint ventures;
  - provision of technical assistance for the hotel industry;
  - production of crafts of a cultural nature for the tourist market.
- (c) market development, *inter alia*:
  - assistance for the definition and execution of objectives and market development plans at national, subregional, regional and international levels;
  - provision of support for ACP States' efforts to gain access to services for the tourist industry such as central reservation systems and air traffic control and security systems;
  - provision of marketing and promotional measures and materials in the framework of integrated market development plans and programmes and with a view to improved market penetration, aimed at the main generators of tourism flows in traditional and non-traditional origin markets as well as specific activities such as participation at specialized trade events, such as fairs, production of quality literature, films and marketing aids.
- (d) Research and information, *inter alia*:
  - improving tourism information and collecting, analysing, disseminating and utilizing statistical data;
  - assessment of the socio-economic impact of tourism on the economies of ACP States with particular emphasis on the development of linkages to other sectors in ACP States and regions such as food production, construction, technology and management.

## CHAPTER 4

### Transport, Communications and Informatics

## ARTICLE 123

1. Co-operation in the area of transport shall be aimed at the development of road transport, railways, port installations and shipping, transport by domestic waterways and air transport.
2. Co-operation in the area of communications shall be aimed at the development of postal services and telecommunications, including radiocommunications and informatics.

3. Co-operation in these areas shall be directed particularly towards the following objectives:

- (a) the creation of conditions fostering the movement of goods, services and persons at national, regional and international level;
- (b) the provision, rehabilitation, maintenance and efficient operation of cost-effective systems serving the requirements of social and economic development and adjusted to the needs of users and to the overall economic situation in the States concerned;
- (c) greater complementarity of transport and communications systems at national, regional and international level;
- (d) the harmonization of the national systems installed in the ACP States, while facilitating their adjustment to technological progress;
- (e) the reduction of barriers to frontier-crossing transport and communications, in terms of legislation, regulations and administrative procedures.

#### ARTICLE 124

1. In all co-operation projects and programmes in the fields concerned, efforts shall be made to ensure an appropriate transfer of technology and know-how.
2. Particular attention shall be given to training ACP nationals in the planning, management, maintenance and operation of transport and communications systems.

#### ARTICLE 125

1. The Contracting Parties recognize the importance of air transport in forging closer economic, cultural and social links between the ACP States and between them and the Community, in improving the communications of isolated or not easily accessible regions and in developing tourism.
2. The objective of co-operation in this field shall be to promote the harmonious development of national and regional ACP air transport networks and the modernization of the ACP fleet of aircraft in line with technical progress, the implementation of the International Civil Aviation Organization air navigation plan, the improvement of reception infrastructures and the application of international operating standards, the development and improvement of air maintenance centres, the provision of training and the development of modern airport security systems.

#### ARTICLE 126

1. The Contracting Parties acknowledge the importance of shipping services as one of the forces behind economic development and promotion of trade between them.
2. The objective of co-operation in this field shall be to ensure harmonious development of efficient and reliable shipping services on economically satisfactory terms by facilitating the active participation of all parties according to the principle of unrestricted access to the trade on a commercial basis.

#### ARTICLE 127

1. The Contracting Parties underline the importance of the United Nations Convention on a Code of Conduct for Liner Conferences<sup>1</sup> and the ratification instruments thereof, which safeguard the terms of competition in maritime matters and afford, *inter alia*, the shipping lines of developing countries extended opportunities to participate in the conference system.
2. Consequently, the Contracting Parties are agreed, when ratifying the Code, on taking prompt measures for its implementation at national level, in conformity with its scope and provisions. The Community shall assist ACP States to apply the relevant provisions of the Code.

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<sup>1</sup> Treaty Series No. 45 (1987), Cm 213.



3. In conformity with Resolution 2 on non-Conference lines, annexed to the Code, the Contracting Parties shall not prevent non-Conference lines from operating in competition with a Conference line as long as they comply with the principle of fair competition on a commercial basis.

#### ARTICLE 128

Attention shall be given in the context of co-operation to encouraging the efficient shipment of cargo at economically and commercially meaningful rates and to the aspirations of ACP States for greater participation in such international shipping services. In this respect, the Community acknowledges the aspirations of the ACP States for greater participation in bulk cargo shipping. The Contracting Parties agree that competitive access to the trade shall not be impaired.

#### ARTICLE 129

In the framework of financial and technical assistance for shipping, special attention shall be given to:

- effective development of efficient and reliable shipping services in the ACP States, notably the gearing of port infrastructure to meet traffic requirements and the maintenance of port equipment;
- maintenance or acquisition of handling equipment and watercraft and their modernization in line with technical progress;
- development of inter-regional shipping with a view to encouraging intra-ACP co-operation and improvements in the functioning of ACP shipping;
- technology transfer including multimodal transport and containerization for the promotion of joint ventures;
- setting-up of appropriate legislative and administrative infrastructure and the improvement of port management, notably through vocational training;
- development of inter-island shipping services and connecting infrastructure and to increased co-operation with economic operators.

#### ARTICLE 130

The Contracting Parties undertake to promote shipping safety, security of crews and the prevention of pollution.

#### ARTICLE 131

In order to ensure the effective implementation of Articles 126 to 130, consultation may take place, at the request of either Contracting Party, where necessary under the conditions provided for in the rules of procedure referred to in Article 11.

#### ARTICLE 132

1. In the field of co-operation on communications, particular attention shall be paid to technological development in supporting ACP States' efforts to establish and develop effective systems. This includes studies and programmes concerning satellite communication, where this is justified by operational considerations, in particular at regional and subregional level. Co-operation shall also cover means of observation of the earth by satellite for meteorology and remote sensing purposes, notably their use for desertification control, halting all forms of pollution, the management of natural resources, agriculture and mining in particular, and land use planning.

2. Particular importance shall be attached to telecommunications in rural areas, in order to stimulate their economic and social development.

#### ARTICLE 133

The aim of co-operation in the field of information technology shall be the building-up of the ACP States' information technology and telematics capacity by offering countries which wish to give high priority to this sector support for their efforts to acquire and install

information technology systems; the development of efficient telematic networks, including international financial information; the production, in time, of computer components and software in the ACP States; their participation in international activities in the field of data processing and the publication of books and reviews.

#### ARTICLE 134

Co-operation activities in the transport and communications fields shall be carried out in accordance with the provisions and procedures laid down in Title III, Part Three, of this Convention.

### TITLE X

#### Trade Development

#### ARTICLE 135

With a view to attaining the objectives set out in Article 167 on trade co-operation, the Contracting Parties shall implement measures for the development of trade at all stages up to final distribution of the product.

The object is to ensure that the ACP States derive the maximum benefit from the provisions of this Convention in the fields of trade, agricultural and industrial co-operation and may participate under the most favourable conditions in the Community, domestic, subregional, regional and international markets by diversifying the range and increasing the value and the volume of ACP States' trade in goods and services.

#### ARTICLE 136

1. In promoting the development of trade and services, in addition to developing trade between the ACP States and the Community, particular attention shall be given to operations designed to increase the ACP States' self-reliance, develop intra-ACP trade, trade to international markets and improve regional co-operation in trade and services.

2. Operations shall be undertaken at the request of the ACP States, particularly in the following areas:

- the establishment of coherent trade strategies;
- development of human resources and professional skills in the field of trade and services;
- the establishment, adaptation and strengthening of organizations in the ACP States dealing with the development of trade and services, particular attention being paid to the special needs of organizations in the least-developed, landlocked and island ACP States;
- support for the ACP States' efforts to develop and improve the quality of their products, adapt them to market requirements and diversify their outlets;
- market development measures including increasing contacts and exchange of information between economic operators in ACP States, the Member States of the Community and in third countries;
- support for ACP States in the application of modern marketing techniques in production-oriented sectors and programmes in areas such as rural development and agriculture;
- support for the ACP States' efforts to develop and improve supportive service infrastructure, including transport and storage facilities, in order to ensure effective distribution of goods and services and in order to enhance the flow of exports from ACP States;
- support for ACP States in developing their internal capacities, information systems and awareness of the role and importance of trade in economic development;
- support to small and medium-sized enterprises for product identification and development, market outlets and joint marketing ventures.

3. With a view to expediting the procedures, financing decisions may deal with multiannual programmes in accordance with the provisions of Article 290 on implementation procedures.

4. Support for ACP States' participation in trade fairs, exhibitions and trade missions should be carried out only where such events form an integral part of overall trade and market development programmes.

5. Participation of the least-developed, landlocked and island ACP States in various trade activities shall be encouraged by special provisions, *inter alia*, the payment of travel expenses of personnel and costs of transporting exhibits, on the occasion of their participation in national, regional and third country fairs, exhibitions or trade missions, including the cost of the temporary construction and/or renting of exhibition booths and stalls. Special assistance shall be provided to least-developed, landlocked and island ACP States for the preparation and/or purchase of promotional material.

#### ARTICLE 137

Within the framework of the instruments provided for in this Convention and in accordance with the provisions for development finance co-operation, assistance for the development of trade and services shall include technical assistance for the establishment and development of insurance and credit institutions in connection with trade development.

#### ARTICLE 138

In addition to the appropriations which, within the framework of the national indicative programmes referred to in Article 281, may be allocated by each ACP State to the financing of operations to develop the fields referred to in Titles IX and X, Part Two, the contribution of the Community to the financing of such operations, where they are of a regional nature, may amount, within the framework of the regional co-operation programmes referred to in Article 156, to the amount provided for in the Financial Protocol annexed to this Convention.

### TITLE XI

#### Cultural and Social Co-operation

#### ARTICLE 139

Co-operation shall contribute to the self-reliant development of the ACP States, a process centred on man himself and rooted in each people's culture. The human and cultural dimension must embrace all areas and be reflected in all development projects and programmes. Co-operation shall back up the policies and measures adopted by those States to enhance their human resources, increase their own creative capacities and promote their cultural identities. It shall foster participation by the population in the process of development.

Such co-operation shall aim at promoting, in the interests of dialogue, exchange and mutual enrichment and, on a basis of equality, a better understanding and greater solidarity between ACP governments and peoples on the one hand, and between ACP and Community governments and peoples on the other.

#### ARTICLE 140

1. Cultural and social co-operation shall be expressed through:
  - the taking into account of the cultural and social dimension in projects and programmes,
  - promotion of the cultural identities of the ACP States' peoples, with a view to fostering their self-advancement, stimulating their creativity and encouraging intercultural dialogue,
  - operations with the purpose of enhancing human resources with a view to the judicious and optimum use of natural resources and the satisfaction of basic physical and non-material needs.

2. Cultural and social co-operation schemes shall be undertaken in accordance with the arrangements and procedures laid down in Title III of Part Three. Resources may also be mobilized through the use of targeted counterpart funds, which may be employed in the social sectors. All schemes shall be governed by the priorities and objectives set in the indicative programmes or in the context of regional co-operation, depending on their inherent characteristics.

#### ARTICLE 141

The Foundation for ACP—EEC Cultural Co-operation shall be recognized as having the task of contributing to the implementation of the objectives of this Title.

Actions conducted by the Foundation to that end shall cover the following areas:

- studies, research and measures concerning the cultural aspects of taking into account the cultural dimension of co-operation.
- studies, research and measures to promote the cultural identities of the ACP peoples and all initiatives likely to contribute to intercultural dialogue.

#### CHAPTER I

#### Cultural and Social Dimension

#### ARTICLE 142

1. The design, appraisal, execution and evaluation of each project or programme shall be based on understanding of, and regard for, the cultural and social features of the milieu.
2. This involves in particular:
  - assessment of opportunities for participation by the population,
  - thorough knowledge of the milieu and ecosystems concerned,
  - study of local technology and of other appropriate forms of technology,
  - provision of relevant information for all those concerned in the design and execution of operations, including technical co-operation personnel,
  - evaluation of the human resources available for executing and maintaining projects,
  - provision of integrated programmes for the promotion of human resources.

#### ARTICLE 143

The following shall be taken into account in the appraisal of all projects and programmes:

- (a) under the heading of cultural aspects:
  - adaptation to the cultural milieu and the implications for that milieu,
  - integration and enhancement of the local cultural heritage, notably value systems, way of life, modes of thought and know-how, materials and styles,
  - methods of information acquisition and transmission,
  - interaction between people and their environment and between population and natural resources;
- (b) under the heading of social aspects, the impact of such projects or programmes on:
  - reinforcement of capacities and structures for self-development,
  - improvement of the status and role of women,
  - the involvement of young people in economic, cultural and social development,
  - contribution to the satisfaction of the basic cultural and physical needs of the population,
  - promotion of employment and training,
  - balance between demographic structure and other resources,
  - social and interpersonal relationships,
  - structures, methods and forms of production and processing.

#### ARTICLE 144

1. Co-operation shall support the ACP States' efforts to ensure that grassroots communities are closely and continuously involved in development operations. Participation by the population should be encouraged from the earliest stages of the preparation of projects and programmes and must be designed to overcome linguistic, educational or cultural barriers.

To this end, and with the internal dynamics of the people as the starting point, the following factors shall be taken into consideration:

- (a) strengthening institutions capable of encouraging participation by the people, through operations involving work organizations, staff training and management;
  - (b) helping the people to organize themselves, particularly within co-operative-type associations, and placing at the disposal of the different groups concerned means complementary to their own initiative and efforts;
  - (c) encouraging participation initiatives through education, training and cultural motivation and promotion;
  - (d) involving the people concerned in the various stages of development. Special attention should be given to the role of women, young people, the elderly and the disabled and the impact of development projects and programmes on these groups;
  - (e) expanding job opportunities, including those offered by the works undertaken as part of development operations.
2. Measures to improve the situation of young people and encourage recognition of their aspirations and their role in society may be supported in the context of co-operation in this sphere.
3. Existing institutions or associations shall be used as widely as possible for the preparation and execution of development operations.

#### CHAPTER 2

#### Promotion of Cultural Identities and Intercultural Dialogue

#### ARTICLE 145

The Contracting Parties shall encourage co-operation through operations fostering the recognition of the cultural identities of the ACP peoples, which are part of their histories and systems of values. It shall foster the reciprocal cultural enrichment of the ACP peoples and those of the Community.

Schemes to promote cultural identities shall be aimed at preserving and enhancing the cultural heritage, the production and dissemination of cultural products and services, highly representative cultural events and support for information and communications media.

Intercultural dialogue shall be geared to more thorough knowledge and a better understanding of cultures. By clearing obstacles to intercultural communication, co-operation shall stimulate awareness of the interdependence of peoples of different cultures.

#### Safeguarding the Cultural Heritage

#### ARTICLE 146

Support shall be provided for action by the ACP States to:

- (a) safeguard and promote their cultural heritage, notably through the establishment of cultural data banks and sound-recording libraries for the collection of oral traditions and the enhancement of such traditions;
- (b) conserve historical and cultural monuments and promote traditional architecture.

## **Production and Distribution of Cultural Goods**

### **ARTICLE 147**

Co-operation schemes aimed at developing ACP States' cultural productions or co-productions and their distribution shall be designed as components of an integrated programme or as specific projects.

Co-operation shall be aimed at fostering the distribution of the ACP States' cultural goods and services which are highly representative of their cultural identities in the ACP countries and the Community.

Where cultural items are produced for the market, their production and distribution shall be eligible for assistance provided under industrial co-operation and trade promotion.

### **Cultural Events**

#### **ARTICLE 148**

Co-operation shall support ACP events and exchanges and also those jointly organized by ACP States and Member States of the Community in particularly significant cultural spheres as part of the promotion of cultural identities and intercultural dialogue.

In this context, co-operation shall support in particular contacts and meetings between groups of young people from ACP States and between ACP groups and groups of young people from Community Member States.

### **Information and Communications**

#### **ARTICLE 149**

Co-operation in the area of information and communications shall be aimed at:

- (a) increasing, by appropriate means, the ACP States' ability to contribute actively to the international flow of information, communications and knowledge; to this end it shall support, *inter alia*, the setting-up and strengthening of national, regional and inter-regional communications media and infrastructure;
- (b) ensuring that the people of the ACP States are better informed for the purposes of mastering their own development, through cultural, economic or social projects or programmes making wide use of communications systems and taking account of traditional communications techniques;
- (c) supporting programmes aimed at creating the conditions for an effective participation of the ACP States in mastery of information and new communications technology.

## **CHAPTER 3**

### **Operations to Enhance the Value of Human Resources**

#### **ARTICLE 150**

Co-operation shall contribute to enhancing the value of human resources, in the context of integrated and co-ordinated programmes, through operations covering education and training, research, science and technology, participation by the population, the role of women, health and nutrition, and population and demography.

### **Education and Training**

#### **ARTICLE 151**

1. The education and training needs of each ACP State shall be determined and taken into account at the programming stage.
2. Training operations shall take the form of integrated programmes aimed at well-defined objectives, either in a given sector or as part of a more general framework. They shall take account of each country's institutional situation and social and cultural values.

3. Education and training operations identified under the indicative programmes and within the focal sectors shall be priority objectives without excluding the possibility of other training operations outside the focal sectors of the indicative programmes.

4. These operations shall, as a matter of priority, be undertaken in the recipient ACP State or region. Where necessary, they may be undertaken in another ACP State or in a Member State of the Community. In the case of specialized training particularly suited to the ACP States' needs, training schemes may, by way of exception, be carried out in another developing country.

5. In order to meet immediate and foreseeable education and training needs, co-operation shall support the ACP States' efforts to:

- (a) set up and expand training and educational establishments, particularly those of a regional nature;
- (b) restructure their educational establishments and systems, update curricula, methods and technology employed and reform their basic educational institutions and systems, in particular by providing overall primary education coverage and adjusting imported systems as well as building them into development strategies;
- (c) inform and make the population aware of progress in science and technology at an early age and at all stages of education and to place emphasis on curricula that incorporate science, technology and practical applications of knowledge geared to job prospects, taking account of traditional techniques;
- (d) pay greater attention to the history and culture of the ACP peoples;
- (e) draw up an inventory of the skills and training and identify new technology required to achieve each ACP State's development objectives;
- (f) encourage educational and training operations proper, notably literacy programmes and programmes of non-traditional forms of training, for functional and vocational purposes, as well as components of programmes that enhance the potential and status of illiterate people;
- (g) exchange their experience with the Community in the field of literacy education and promote and support the participation and integration of women in education and training and give less advantaged sections of the population in rural areas access to education and training;
- (h) stimulate training of instructors, educational planners and specialists in educational technology;
- (i) initiate associations, twinning, exchanges and transfers of information and technology between universities and institutions of higher education in the ACP States and in the Community.

### **Scientific and Technical Co-operation**

#### **ARTICLE 152**

1. The aim of scientific and technical co-operation shall be to:

- (a) provide support for the ACP States' efforts to acquire their own scientific and technical skills, master the technology they require for their development and participate actively in modern scientific, environmental and technological developments;
- (b) target research to find solutions to economic and social problems;
- (c) improve the quality of life and well-being of the people.

2. To this end, co-operation shall provide support, in addition to that under Articles 47, 85 and 229 for:

- (a) identification of the ACP States' needs concerning relevant new technology (including biotechnology) and its acquisition;
- (b) the execution of research programmes established by the ACP States and integrated into other development operations;
- (c) associations, twinning, exchanges and transfers of information and technology between universities and research institutes in the ACP States and in the Community.

3. Research programmes shall be carried out primarily in the ACP States' national or regional framework; they shall take account of the needs and living conditions of the people concerned, especially the rural population, while guarding against any adverse repercussions on health, the environment, employment or development. They shall support development in priority areas and comprise the following operations, as needed:

- (a) the setting-up or strengthening of basic or applied research institutes;
- (b) scientific and technological co-operation between the ACP States or between them and the Member States of the Community or other countries, developed or developing, and with Community or international scientific institutes;
- (c) the promotion of local technology, and the selection of imported technology and its adaptation to the specific needs of the ACP States;
- (d) improvement of scientific and technical information and documentation to ensure the better dissemination of research trends and findings, via networks at national, sub-regional, regional and inter-regional levels and between ACP States and the Community;
- (e) making research findings accessible to the general public.

4. These research programmes should be co-ordinated wherever possible with others implemented in the ACP States with the help of other sources of financing such as international research institutes, the Member States of the Community or the Community itself.

### **Women in Development**

#### **ARTICLE 153**

Co-operation shall support the ACP States' efforts aimed at:

- (a) enhancing the status of women, improving their living conditions, expanding their economic and social role and promoting their full participation in the production and development process on equal terms with men;
- (b) paying particular attention to access by women to land, labour, advanced technology, credit and co-operative organizations and to appropriate technology aimed at alleviating the arduous nature of their tasks;
- (c) providing easier access by women to training and education, which shall be regarded as a crucial element to be incorporated from the outset in development programming;
- (d) adjusting education systems as necessary to take account in particular of women's responsibilities and opportunities;
- (e) paying particular attention to the crucial role women play in family health, nutrition and hygiene, the management of natural resources and environmental protection. Dissemination of information to women and training of women in these areas are fundamental factors to be considered at the programming stage. Appropriate action shall be taken in all operations referred to above to ensure the active participation of women.

### **Health and Nutrition**

#### **ARTICLE 154**

1. The ACP States and the Community recognize the importance of the health sector to ensuring sustainable and self-reliant development. The aim of co-operation shall be to facilitate the right of access of the greatest number of people to adequate health care, thus promoting equity and social justice, alleviating suffering, reducing the economic burden of disease and mortality, and promoting the effective participation of the community in operations to improve health and well-being.

The two parties recognize that the attainment of these aims calls for:

- a systematic, long-term approach to the improvement and strengthening of the health sector,
- the definition of comprehensive national health guidelines and programmes,
- improved management and use of existing human, financial and physical resources.



2. To this end, co-operation in this sector shall seek to support functional and sustainable health services which are financially affordable, culturally acceptable, geographically accessible and technically competent. It shall seek to promote an integrated approach to the creation of health services based on the extension of preventive care, the improvement of curative care and complementarity between hospital-based and basic-level services, in accordance with primary health care policy.

3. Co-operation in the health sector may provide support for:

- the improvement and extension of basic health services and also the strengthening of hospitals and maintenance of equipment, acknowledged as essential for the smooth operation of the health system as a whole,
- health-sector planning and management, including the strengthening of statistical services, and the formulation of health financing strategies at national, regional and district levels, this last level being the focal point for co-ordination of basic services, provision of specialist services and implementation of programmes to stamp out widespread diseases,
- schemes to integrate traditional medicine in modern health care,
- essential drug programmes and strategies, including local production units for basic drugs and consumables, taking account of traditional pharmacy, in particular the use of medicinal plants, which is something that should be studied and developed,
- training of staff in the context of an overall programme, from public health planners, administrators, management staff and specialists, down to the personnel working in the field, this training being tailored to the actual responsibilities borne at each level,
- support for training and information programmes and campaigns aimed at stamping out endemic diseases, improving environmental hygiene, combatting the use of narcotic drugs, the spread of transmitted diseases and other health scourges in the framework of integrated health systems,
- the building-up of research institutes, university departments and specialist schools in ACP countries, notably in the field of public health.

## **Population and Demography**

### ARTICLE 155

1. Co-operation on population shall be aimed in particular at:

- (a) ensuring a better overall balance in the ACP States between population, the protection of the environment and natural resources and the production of economic resources and social goods;
- (b) dealing with regional imbalances, which may stem from factors such as internal migration, rural exodus, rapid urbanization and increasing environmental deterioration;
- (c) dealing with local imbalances between population and available resources.

2. Measures to achieve the objectives referred to in paragraph 1 should be made part of training programmes and projects, health or land-use planning policies and shall include:

- (a) creation of statistical and demographic services in the ACP States or expansion of their capacity, with a view to collecting reliable data for the formulation of population policies;
- (b) public information about demographic problems and policies;
- (c) the preparation, implementation and evaluation of demographic projects or programmes;
- (d) the formulation and implementation of voluntary family planning policies;
- (e) the training of personnel in the ACP States to implement population policies in various sectors.

3. Such measures shall take into account local, cultural and social practices and local economies. They shall be drawn up and carried out in accordance with the policies and programmes of ACP States and in conformity with fundamental rights and the freely made choices of individuals concerning family size, the planning of births and the means to be used for family planning.

The implementation of such measures shall take particular account of the interaction between demographic and other policies. The role of women in these different areas shall be considered essential.

## TITLE XII

### Regional Co-operation

#### ARTICLE 156

1. The Community shall support the ACP States' efforts through regional co-operation and integration to promote long-term collective and self-reliant, self-sustained and integrated social, cultural and economic development and greater regional self-sufficiency.
2. Community support shall be given within the framework of the major regional co-operation and integration objectives which the ACP States have set or will set for themselves at regional, inter-regional and international level.
3. In order to promote and strengthen the ACP States' collective capabilities, the Community shall provide effective aid enabling them to strengthen regional economic integration and consolidate co-operation of a functional type or on specific themes referred to in Articles 158 and 159.
4. While taking account of local circumstances, regional co-operation shall transcend the concepts of geographical location. It shall also cover intra-ACP regional co-operation.

It shall include regional co-operation between ACP States and overseas territories or departments. The funding to enable the participation of these territories and departments shall be additional to funds allocated to the ACP States under the Convention.

#### ARTICLE 157

1. Regional co-operation shall cover operations agreed on between:
  - two or more or all ACP States,
  - one or more ACP States and one or more neighbouring non-ACP States, countries or territories,
  - one or more ACP States and one or more overseas territories or departments,
  - two or more regional bodies of which ACP States are members,
  - one or more ACP States and regional bodies of which ACP States are members.
2. Regional co-operation may also cover projects and programmes agreed upon by two or more ACP States and one or more non-ACP, non-neighbouring developing States and, when special circumstances so warrant, between one ACP State and one or more non-ACP non-neighbouring developing States.

#### ARTICLE 158

1. In the context of regional co-operation particular attention shall be paid to:
  - (a) evaluation and utilization of existing and potential dynamic complementarities in all relevant sectors;
  - (b) maximization of the use of ACP human resources as well as the optimum and judicious exploration, conservation, processing and exploitation of ACP natural resources;
  - (c) promotion of scientific and technical co-operation among the ACP States, including support for intra-ACP technical assistance programmes as provided for in Article 275(e) of the Convention;

- (d) acceleration of economic diversification in order to stimulate complementarity in production and intensification of co-operation and development within and between ACP regions, as well as between the latter and overseas territories and departments;
  - (e) promotion of food security;
  - (f) strengthening a network of relations among individual countries or groups of countries which have common characteristics, affinities and problems in order to solve such problems;
  - (g) fullest use of economies of scale wherever a regional solution is more efficient than a national solution;
  - (h) expansion of ACP States' markets by promoting trade among ACP States and between the ACP States and neighbouring third countries or overseas territories and departments;
  - (i) integration of ACP States' markets by liberalizing intra-ACP trade and eliminating tariff, non-tariff, monetary and administrative barriers.
2. Particular stress shall be put on the promotion and strengthening of regional economic integration.

#### ARTICLE 159

Having regard to Article 158, the scope of regional co-operation shall include the following:

- (a) agriculture and rural development, notably food self-sufficiency and food security;
- (b) health programmes, including education, training, research and information related to primary health care and control of major diseases, including animal diseases;
- (c) evaluation, development, exploitation and preservation of fishery and marine resources, including scientific and technical co-operation with a view to the surveillance of exclusive economic zones;
- (d) preservation and improvement of the environment, especially through programmes to combat desertification, erosion, deforestation, coastal deterioration, the consequences of large-scale marine pollution, including large accidental discharges of petroleum or other pollutants with a view to ensuring rational and ecologically balanced development;
- (e) industrialization, including the setting-up of regional and inter-regional production and marketing enterprises;
- (f) exploitation of natural resources, notably the production and distribution of energy;
- (g) transport and communications, namely roads, railways, air and sea transport, inland waterways, postal services and telecommunications and give priority to the establishment, rehabilitation and development of road and rail links to the sea for the landlocked ACP States;
- (h) development and expansion of trade;
- (i) support for the setting up or strengthening of regional payment mechanisms including clearing and financing facilities for trade;
- (j) support, at the request of the ACP States concerned, for operations and structures which promote the co-ordination of sectoral policies and structural adjustment efforts;
- (k) assistance to ACP States to help combat drug trafficking at regional and inter-regional levels;
- (l) assistance for action programmes undertaken by ACP and ACP-EEC trade and business organizations with the aim of improving the production and marketing of products on external markets;
- (m) education and training, research, science and technology, informatics, management, information and communication, the establishment and strengthening of training and research institutions and technical bodies responsible for technology exchanges and co-operation among universities;
- (n) other services, including tourism;

- (o) cultural and social co-operation activities, including support for action-oriented programmes taken by ACP States at regional level with a view to enhancing the status of women, improving their living conditions, expanding their economic and social role and promoting their full participation in the economic, cultural and social development process.

#### ARTICLE 160

1. In order to improve its impact and effectiveness, regional co-operation shall be programmed for each region at the beginning of the period covered by the Convention.

The programming, with the participation of the ACP States, shall be based on an appropriation fixed at the outset for each region and shall be the result of an exchange of views between all the national authorizing officers in the region concerned, or a regional organization which they have mandated to represent them, the Commission and its Delegates.

- (a) The aim of this programming shall, in accordance with Article 156(2), be to draw up a programme specifying:
  - the focal sectors for Community aid;
  - the most appropriate measures and operations to achieve the objectives set for those sectors;
  - the projects and programmes enabling those objectives to be attained, insofar as they have been clearly identified.
- (b) The exchange of views organized for the purpose of programming shall continue for the purposes of implementation and follow-up; to that end, the national authorizing officers of the region concerned or a regional organization which they have mandated to represent them, the Commission and its Delegates, and those in charge of regional projects and programmes shall meet, as a general rule, once a year to ensure that regional programmes are correctly implemented.

2. Account being taken of the objectives and inherent characteristics of regional co-operation, projects and programmes undertaken in this sphere shall be governed by the arrangements and procedures established for development finance co-operation where they apply to that context.

#### ARTICLE 161

1. Regional organizations duly mandated by the ACP States concerned must play an important part in the design and implementation of regional programmes.
2. They may take part in the programming exercise and in the implementation and management of regional programmes and projects.
3. Where an operation is financed by the Community through a regional co-operation body, the financing terms applicable to the final beneficiaries shall be agreed between the Community and that body in agreement with the ACP State or States concerned.

#### ARTICLE 162

A regional operation is one which helps directly to solve a development problem common to two or more countries through joint schemes or co-ordinated national schemes and which meets at least one of the following criteria:

- (a) because of its nature or physical characteristics, it necessarily extends beyond the frontiers of one ACP State and cannot be carried out by a single country nor be divided up into national operations to be undertaken by each State on its own account;
- (b) the regional formula makes it possible to achieve significant economies of scale in relation to national operations;
- (c) the operation is the regional, inter-regional or intra-ACP expression of a sectoral or a global strategy;
- (d) the accompanying costs and benefits are unequally shared out among the beneficiary countries.

#### ARTICLE 163

The Community's contribution under regional co-operation shall, in respect of operations which could be undertaken partly at national level, be determined on the basis of the following factors:

- (a) the operation strengthens co-operation between the ACP States concerned at the level of authorities, institutions or enterprises, or through regional bodies or by removing obstacles, whether in the form of regulations or financial;
- (b) two or more States have entered into mutual commitments in respect of an operation, notably as regards the distribution of facilities, investment and the running thereof.

#### ARTICLE 164

1. The requests for financing from funds earmarked for regional co-operation shall be governed by the following general procedures:

- (a) requests for financing shall be presented by each of the ACP States participating in a regional operation;
- (b) wherever an operation of regional co-operation is such as to be of interest to other ACP States, the Commission shall, in agreement with other applicant States, inform the other ACP States or, if need be, all the ACP States. The ACP States interested shall then confirm whether they intend to participate.

Notwithstanding this procedure, the Commission shall examine without delay any request for financing as long as it has been presented by at least two ACP States. The financing decision shall be taken after the States consulted have communicated their intention;

- (c) where a single ACP State is associated with non-ACP countries, as provided for in Article 157, its request alone shall suffice;
- (d) request for financing for intra-ACP regional co-operation schemes may be submitted by the ACP Council of Ministers, or, by specific delegation, by the ACP Committee of Ambassadors;
- (e) regional co-operation bodies may present requests for the financing of one or more specific regional co-operation schemes on behalf, and with the explicit agreement, of those of their members that are ACP States;
- (f) each request for regional co-operation funding must include, where necessary, proposals concerning:
  - (i) the ownership of the goods and services to be financed as part of the operation, and the division of responsibilities for operation and maintenance;
  - (ii) the choice of the regional authorizing officer and the State or body authorized to sign the financing agreement on behalf of all the participating ACP States or bodies.

2. The indicative programme for each region may lay down appropriate arrangements for the submission of requests.

3. The ACP State or States or regional bodies participating in a regional operation with third countries as provided for in Article 157 may request the Community to finance that part of the operation for which they are responsible or a part in proportion to the benefits they derive from the operation.

#### ARTICLE 165

1. With a view to encouraging regional co-operation between the least-developed, landlocked and island countries, particular attention shall be paid to these countries' specific problems at the regional programming stage and in the implementation.

2. As regards financing, the least-developed ACP States shall be given priority in any project involving at least one ACP State in that category, while special attention shall be paid to the landlocked and island ACP States in order to overcome the obstacles holding back their development.

ARTICLE 166

For the purposes set out in the present Title, the amount of the Community's financial assistance is provided for in Article 3 of the Financial Protocol to this Convention.

**PART THREE**  
**THE INSTRUMENTS OF ACP-EEC CO-OPERATION**

**TITLE I**

**Trade Co-operation**

**CHAPTER I**

**General Trade Arrangements**

**ARTICLE 167**

1. In the field of trade co-operation, the object of this Convention is to promote trade between the ACP States and the Community, taking account of their respective levels of development, and also between the ACP States themselves.
2. In the pursuit of this objective, particular regard shall be had to securing effective additional advantages for ACP States' trade with the Community and to improving the conditions of access for their products to the market in order to accelerate the growth of their trade and, in particular, of the flow of their exports to the Community and to ensure a better balance in the trade of the Contracting Parties.
3. To this end, the Contracting Parties shall apply the provisions of this Title and the other appropriate measures under Title III of this Part and under Part Two of this Convention.

**ARTICLE 168**

1. Products originating in the ACP States shall be imported into the Community free of customs duties and charges having equivalent effect.
2. (a) Products originating in the ACP States:
  - listed in Annex II to the Treaty where they come under a common organization of the market within the meaning of Article 40 of the Treaty, or
  - subject, on import into the Community, to specific rules introduced as a result of the implementation of the common agricultural policyshall be imported into the Community, notwithstanding the general arrangements applied in respect of third countries, in accordance with the following provisions:
  - (i) those products shall be imported free of customs duties for which Community provisions in force at the time of import do not provide, apart from customs duties, for the application of any measure relating to their import;
  - (ii) for products other than those referred to under (i), the Community shall take the necessary measures to ensure more favourable treatment than that granted to third countries benefiting from the most-favoured-nation clause for the same products.
- (b) If, during the application of this Convention, the ACP States request that new lines of agricultural production or agricultural products which are not the subject of specific arrangements when this Convention enters into force should benefit from such arrangements, the Community shall examine these requests in consultation with the ACP States.
- (c) Notwithstanding the above, the Community shall, in the context of the special relations and special nature of ACP-EEC co-operation, examine on a case-by-case basis the requests from the ACP States for preferential access for their agricultural products to the Community market and shall notify its decision on these reasoned requests if possible within four months, and in any case not more than six months after the date of their submission.

Within the context of subparagraph (a)(ii), the Community shall take its decisions in particular with reference to concessions granted to developing third countries. It shall take account of the possibilities offered by the off-season market.
- (d) The arrangements referred to in subparagraph (a) shall enter into force at the same time as this Convention and shall remain applicable for its duration.

However, if during the application of this Convention, the Community:

—subjects one or more products to common organization of the market or to specific rules introduced as a result of the implementation of the common agricultural policy, it shall reserve the right to adapt the import treatment for those products originating in the ACP States, following consultations within the Council of Ministers. In such cases, the provisions of subparagraph (a) shall be applicable;

—modifies the common organization of the market in a particular product or the specific rules introduced as a result of the implementation of the common agricultural policy, it shall reserve the right to modify the arrangements laid down for products originating in the ACP States, following consultations within the Council of Ministers. In such cases the Community shall undertake to ensure that products originating in the ACP States continue to enjoy an advantage comparable to that previously enjoyed in relation to products originating in third countries benefiting from the most-favoured-nation clause.

- (e) Where the Community intends to conclude a preferential agreement with third States it shall inform the ACP States thereof. Consultations shall take place where the ACP States so request in order to safeguard their interests.

#### ARTICLE 169

1. The Community shall not apply to imports of products originating in the ACP States any quantitative restrictions or measures having equivalent effect.
2. However, paragraph 1 shall apply without prejudice to the import arrangements for the products referred to in the first indent of Article 168(2)(a).

The Community shall inform the ACP States when residual quantitative restrictions are eliminated in respect of any of these products.

#### ARTICLE 170

1. Article 169 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security, the protection of health and life of humans, animals and plants, the protection of national treasures possessing artistic, historic or archaeological value or the protection of industrial and commercial property.
2. Such prohibitions or restrictions shall in no case constitute a means of arbitrary discrimination or a disguised restriction of trade generally.

In cases where implementation of the measures referred to in paragraph 1 affects the interests of one or more ACP States, consultations shall be held at the request of the latter, in accordance with the second paragraph of Article 12, with a view to reaching a satisfactory solution.

3. Provisions on the movement of hazardous and radioactive waste are set out in Part Two, Title I, of this Convention.

#### ARTICLE 171

The treatment applied to imports of products originating in the ACP States may not be more favourable than that applied to trade among the Member States of the Community.

#### ARTICLE 172

Where new measures or measures stipulated in programmes adopted by the Community for the approximation of laws and regulations in order to facilitate the movement of goods are likely to affect the interests of one or more ACP States, the Community shall, prior to adopting such measures, inform the ACP States thereof through the Council of Ministers.

In order to enable the Community to take into consideration the interests of the ACP State concerned, consultations shall be held at the request of the latter in accordance with Article 12, second paragraph, with a view to reaching a satisfactory solution.



#### ARTICLE 173

1. Where existing Community rules or regulations adopted in order to facilitate the movement of goods affect the interests of one or more ACP States or where these interests are affected by the interpretation, application or administration of such rules or regulations, consultations shall be held at the request of the ACP States concerned with a view to reaching a satisfactory solution.
2. With a view to finding a satisfactory solution, the ACP States may also bring up within the Council of Ministers any other problems relating to the movement of goods which might result from measures taken or envisaged by the Member States.
3. The relevant institutions of the Community shall, to the greatest possible extent, inform the Council of Ministers of such measures in order to ensure effective consultations.

#### ARTICLE 174

1. In view of their present development needs, the ACP States shall not be required for the duration of this Convention to assume, in respect of imports of products originating in the Community, obligations corresponding to the commitment entered into by the Community under this Chapter in respect of imports of the products originating in the ACP States.
2. (a) In their trade with the Community, the ACP States shall not discriminate among the Member States and shall grant to the Community treatment no less favourable than most-favoured-nation treatment.  
(b) Notwithstanding specific provisions of this Convention, the Community shall not discriminate between ACP States in the field of trade.  
(c) The most-favoured-nation treatment referred to in subparagraph (a) shall not apply in respect of trade or economic relations between ACP States or between one or more ACP States and other developing countries.

#### ARTICLE 175

Unless it has already done so under earlier ACP-EEC Conventions, each Contracting Party shall communicate its customs tariff to the Council of Ministers within three months of the entry into force of this Convention. Each Contracting Party shall also communicate any subsequent amendments to its tariff as and when they come into force.

#### ARTICLE 176

1. The concept of "originating products" for the purposes of implementing this Chapter, and the methods of administrative co-operation relating thereto, are defined in Protocol 1.
2. The Council of Ministers may adopt any amendment to Protocol 1.
3. Where the concept of "originating products" has not yet been defined for a given product pursuant to paragraphs 1 or 2, each Contracting Party shall continue to apply its own rules.

#### ARTICLE 177

1. Should application of this Chapter result in serious disturbances in a sector of the economy of the Community or of one or more of the Member States, or jeopardize their external financial stability, or if difficulties arise which may result in a deterioration thereof, the Community may take, or may authorize the Member State concerned to take, safeguard measures. These measures, their duration and their methods of application shall be notified immediately to the Council of Ministers.

2. The Community and its Member States undertake not to use other means for protectionist purposes or to hamper structural development. The Community will refrain from using safeguard measures having the same effect.

3. Safeguard measures shall be restricted to those which would least disturb trade between the Contracting Parties in implementing the objectives of this Convention and must not exceed the scope of what is strictly necessary to remedy the difficulties that have arisen.

4. When applied, safeguard measures shall take account of the existing level of the ACP exports concerned to the Community and their potential for development.

#### ARTICLE 178

1. Prior consultations shall take place concerning the application of the safeguard clause, both when such measures are first adopted and when they are extended. The Community shall provide the ACP States with all the information required for such consultations and shall provide the data from which to determine to what extent imports from an ACP State or ACP States of a specific product have caused the effects referred to in Article 177(1).

2. Where consultations have taken place, safeguard measures, or arrangements jointly agreed upon by the ACP States concerned and the Community, shall enter into force thereafter.

3. However, the prior consultations provided for in paragraphs 1 and 2 shall not prevent any immediate decisions which the Community or its Member States, in accordance with Article 177(1), might take where special factors have necessitated such decisions.

4. In order to facilitate the examination of factors that may cause market disturbances, a mechanism shall be instituted for the statistical surveillance of certain ACP exports to the Community.

5. The Contracting Parties undertake to hold regular consultations with a view to finding satisfactory solutions to problems which might result from the application of the safeguard clause.

6. The prior consultations as well as the regular consultations and the surveillance mechanism referred to in paragraphs 1 to 5 shall be implemented in accordance with Protocol 4.

#### ARTICLE 179

The Council of Ministers shall, at the request of any Contracting Party concerned, consider the economic and social effects of the application of the safeguard clause.

#### ARTICLE 180

When safeguard measures are being taken, modified or removed, particular attention shall be paid to the interests of the least-developed, landlocked and island ACP States.

#### ARTICLE 181

In order to ensure the effective implementation of this Convention in the field of trade and customs co-operation, the Contracting Parties agree to inform and consult each other.

In addition to the cases for which consultations are specifically provided for in Articles 167 to 180, consultations shall also take place, at the request of the Community or of the ACP States, and in accordance with the conditions provided for in the procedural rules in Article 12, particularly in the following cases:

- (1) where Contracting Parties intend to take any trade measures affecting the interests of one or more Contracting Parties under this Convention, they shall inform the Council of Ministers thereof. Consultations shall take place, where the Contracting Parties concerned so request, in order to take account of their respective interests.

- (2) if, during the application of this Convention, the ACP States consider that agricultural products covered by Article 168(2)(a) other than those subject to special treatment should benefit from such treatment, consultations may take place within the Council of Ministers;
- (3) where a Contracting Party considers that obstacles to the movement of goods arise as a result of the existing rules of another Contracting Party or the interpretation, application or administration thereof;
- (4) where the Community or the Member States take safeguard measures in accordance with Article 177, consultations on these measures may take place within the Council of Ministers, where the Contracting Parties concerned so request, notably with a view to ensuring compliance with Article 177(3).

Such consultations must be completed within three months.

## CHAPTER 2

### Special Undertakings on Rum and Bananas

#### ARTICLE 182

Until the entry into force of a common organization of the market in spirits and notwithstanding Article 167(1), entry into the Community of products of subheadings 2208 40 10, 2208 40 90, 2208 90 11 and 2208 90 19 of the Combined Nomenclature—rum, arrack, taffia—originating in the ACP States shall be governed by Protocol 6.

#### ARTICLE 183

In order to permit the improvement of the conditions under which bananas originating in the ACP States are produced and marketed, the Contracting Parties hereby agree to the objectives set out in Protocol 5.

#### ARTICLE 184

This Chapter and Protocols 5 and 6 shall not apply to relations between the ACP States and the French overseas departments.

## CHAPTER 3

### Trade in Services

#### ARTICLE 185

1. The Contracting Parties recognize the importance of trade in services for the development of the ACP States' economies, on account of the increasing role of services in international trade and their considerable growth potential.
2. The ACP States and the Community recognize that the long-term aim in this area is a progressive liberalization of trade in services, with due respect for national policy objectives, and taking due account of the level of development of ACP States.
3. The ACP States and the Community recognize further that it will be opportune and necessary to develop co-operation in this sector when the outcome of current Multilateral Trade Negotiations is known.
4. Therefore, the Contracting Parties will negotiate amendments or further elaboration of this Convention to take account, and to take advantage, of the outcome of the Multilateral Trade Negotiations in the GATT.
5. Following the negotiations referred to in paragraph 4, which will take place within the framework of the Council of Ministers, the Council of Ministers may adopt any amendment to this Chapter.

## TITLE II

### Co-operation in the Field of Commodities

#### CHAPTER I

#### Stabilization of Export Earnings from Agricultural Commodities

##### ARTICLE 186

1. With the aim of remedying the harmful effects of the instability of export earnings and to help the ACP States overcome one of the main obstacles to the stability, profitability and sustained growth of their economies, to support their development efforts and to enable them in this way to ensure economic and social progress for their peoples by helping to safeguard their purchasing power, a system shall be operated to guarantee the stabilization of export earnings derived from the ACP States' exports to the Community or other destinations as defined in Article 189, of products on which their economies are dependent and which are affected by fluctuations in price or quantity or both these factors.

2. In order to attain these objectives, transfers shall be devoted, in accordance with a framework of mutual obligations to be agreed between the ACP State concerned and the Commission in each case, either to the sector, interpreted in the widest possible sense, that recorded the loss of export earnings and be used there for the benefit of economic operators adversely affected by this loss, or, where appropriate, to diversification, either for use in other appropriate productive sectors in principle agricultural, or for the processing of agricultural products.

##### ARTICLE 187

1. The following products shall be covered:

	<i>Combined Nomenclature Position</i>
1. Groundnuts in shell or shelled	1202
2. Groundnut oil	1508
3. Cocoa beans	1801
4. Cocoa husks, shells and skins and other waste	1802
5. Cocoa paste	1803
6. Cocoa butter	1804
7. Cocoa powder	1805
8. Raw or roasted coffee	0901 11 to 0901 22
9. Extracts, essences and concentrates of coffee	2101 10 11 2101 10 19
10. Cotton not carded or combed	5201
11. Cotton liners	1404 20
12. Coconuts	0801 10
13. Copra	1203
14. Coconut oil	1513 11 1513 19
15. Palm oil	1511
16. Palm kernel oil	1513 21 1513 29
17. Palm nuts and kernels	1207 10
18. Raw hides and skins	4101 10 to 4101 30 4102 4103 10
19. Leather of bovine animals	4104 10 to 4104 29 4104 31 11 4104 31 19 4104 31 30 4104 39 10

	<i>Combined Nomenclature Position</i>
20. Sheep and lamb skin leather	4105
21. Goat and kid skin leather	4106
22. Wood in the rough and squared wood	4403
23. Sawn wood	4407
24. Fresh bananas	0803 00 10
25. Dried bananas	0803 00 90
26. Tea	0902
27. Raw sisal	5304 10
28. Vanilla	0905
29. Cloves	0907
30. Wool not carded or combed	5101
31. Fine animal hair of Angora goat—Mohair	5102 10 50
32. Gum Arabic	1301 20 00
33. Pyrethrum; saps and extracts of pyrethrum	1211 90 10 1302 14
34. Essential oils	3301 11 to 3301 29
35. Sesame seed	1207 40
36. Cashew nuts and kernels	0801 30
37. Pepper	0904
38. Shrimps and prawns	0306 13 0306 23
39. Squid, octopus and cuttlefish	0307 41 0307 49 0307 51 0307 59
40. Cotton seed	1207 20
41. Oil cake	2305 2306 10 2306 50 2306 60 2306 90 93
42. Rubber	4001
43. Peas	0708 10 0713 10 0713 20
44. Beans	0708 20 0713 31 to 0713 39 ex 0713 90
45. Lentils	0713 40
46. Nutmeg and Mace	0908 10 0908 20
47. Shea nuts	1207 92
48. Shea nut oil	ex 1515 90 40 to ex 1515 90 99
49. Mangoes	ex 0804 50

2. In all cases of application of the system, the Commission shall, in the interests of the ACP State concerned, consider as products within the meaning of this chapter:

- (a) each product listed in paragraph 1;
- (b) product groups 1 and 2, 3 to 7, 8 and 9, 10 and 11, 12 to 14, 15 to 17, 18 to 21, 22 and 23, 24 and 25, 47 and 48.

#### ARTICLE 188

If, twelve months after the entry into force of this Convention, one or more products not contained in the list in Article 187 but upon which the economies of one or more ACP States depend to a considerable extent are affected by sharp fluctuations, the Council of

Ministers shall decide, not more than six months after the presentation of a request by the ACP State or States concerned whether or not to include the said product or products in the list, taking account of factors such as employment, deterioration of the terms of trade between the Community and the ACP State concerned, the level of development of the ACP State concerned and the conditions which characterize products originating in the Community.

#### ARTICLE 189

1. The system shall apply to earnings from exports
  - (a) by each ACP State to the Community of each product referred to in Article 187(2);
  - (b) by the ACP States benefiting from the derogation referred to in paragraph 2 to the other ACP States of each product referred to in Article 187(2) for which such derogation has been granted;
  - (c) by the ACP States benefiting from the derogation referred to in paragraph 3 to all destinations of each product referred to in Article 187(2).
2. At the request of one or more ACP States in respect of one or more of the products referred to in Article 187(1), the Council of Ministers may decide, after examination of a report established by the Commission on the basis of the relevant information provided by the requesting ACP State or States, and not more than six months after the presentation of the request, to apply the system to exports of the products in question from the said ACP State or States to other ACP States.
3. If, on the basis of relevant data for the average of the two years preceding the application year, at least 70% of an ACP State's total export earnings from products covered by the system do not come from exports to the Community, the system shall be automatically applied to its exports of each of the products referred to in Article 187(2), whatever the destination.

In the case of the least-developed ACP States this percentage shall be 60%.

For each year of application and for each ACP State, the Commission shall check that these criteria have been fulfilled.

#### ARTICLE 190

For the purposes stipulated in Article 186 and for the duration of the Financial Protocol annexed to this Convention, the amount provided for in that protocol shall be allocated to the system. This amount shall cover all commitments under the system. It shall be managed by the Commission.

#### ARTICLE 191

1. The overall amount referred to in Article 190 shall be divided into a number of equal annual instalments corresponding to the number of years of application of the Financial Protocol.
2. Whatever balance remains at the end of each year of application of the Financial Protocol annexed to this Convention except the last shall be carried forward automatically to the following year.

#### ARTICLE 192

Interest earned by investment in the market, over the period from 1 April to 30 June, of the sum equivalent to half each annual instalment, minus any advances and transfers paid during that period, shall be credited to the system's resources.

Interest earned by investment in the market, over the period from 1 July to 31 March, of the sum equivalent to the second half of each annual instalment, minus any advances and transfers paid during that second period, shall be credited to the system's resources.

Any part of an annual instalment which has not been advanced or transferred shall continue to bear interest which will be added to the system's resources until its utilization in the following year.

#### ARTICLE 193

The resources available for each year of application are made up of the sum of the following:

1. the annual instalment, plus any amounts available or less any amounts used under Article 194(1);
2. the sums carried forward under Article 191(2);
3. the amount of interest earned pursuant to Article 192.

#### ARTICLE 194

1. If the total amount of the transfer bases in a year of application, calculated in accordance with Article 197, and where appropriate reduced in accordance with Articles 202 to 204, exceeds the amount of resources available in the system for that year, advance use shall be made automatically, for each year except the last, of a maximum of 25% of the following year's instalment.
2. If, after the operation referred to in paragraph 1, the amount of resources available is still less than the total amount of the transfer bases referred to in paragraph 1 for the same year of application, the amount of each transfer basis shall be reduced by 10% of that amount.
3. If, after the reduction referred to in paragraph 2, the total amount of the transfers so calculated is less than the amount of resources available, the remainder shall be shared among all the transfers in proportion to the amounts by which each transfer was reduced.
4. If, after the reduction referred to in paragraph 2, the total amount of the transfers which may give rise to a payment exceeds the amount of available resources, the Council of Ministers shall evaluate the situation on the basis of a Commission report on the probable development of the system and shall examine the steps to be taken to remedy that situation, within the terms of this Convention.

#### ARTICLE 195

In the case of any balance remaining from the overall amount referred to in Article 190, including the interest referred to in Article 192 after the expiry of the last year of administration of the system under the Financial Protocol annexed to this Convention:

- (a) the amounts resulting from the application of the percentage referred to in Article 197(3) and (4) shall be repaid to each ACP State in proportion to the deduction or deductions made in application of those provisions;
- (b) if any balance remains after application of (a), the Council of Ministers shall decide on its use.

#### ARTICLE 196

1. The system shall apply to the earnings from an ACP State's exports of the products referred to in Article 187(2) if, during the year preceding the year of application, earnings from the export of each product to all destinations, re-exports excluded, represented at least 5% of its total earnings from exports of all goods. The percentage shall be 4% in the case of sisal.
2. For the least-developed, landlocked and island ACP States, the percentage referred to in paragraph 1 shall be 1%.
3. Where, following a natural disaster, a substantial fall in production of the product in question is recorded during the year preceding the year of application, the percentage referred to in paragraph 1 shall be calculated on the basis of the average export earnings from that product during the three years preceding the year of the disaster.

A substantial fall in production shall be taken to mean at least 50% of the average production during the three years preceding the year of the disaster.

#### ARTICLE 197

1. In order to implement the system, a reference level and a transfer basis shall be calculated for each ACP State and for exports of each product referred to in Article 187(1) to the Community or other destinations as defined in Article 189.

2. The reference level shall be constituted by the average of export earnings during the period of the six calendar years preceding each year of application less the two years with the highest and lowest figures.

3. The transfer basis shall be constituted by the difference between the reference level and actual earnings in the calendar year of application, reduced by an amount corresponding to 4,5% of the reference level. In the case of the least-developed ACP States, this percentage shall be 1%.

4. The reductions referred to in paragraph 3 shall not apply in the case of the least-developed or landlocked ACP States if the difference between the reference level and actual earnings is less than ECU 2 million, or in the case of island ACP States if this difference is less than ECU 1 million.

In no case shall the reduction of the difference between the reference level and actual earnings be greater than

—20% for the least-developed and for landlocked ACP states;

—30% for other ACP States.

5. The amount of the transfer shall be the transfer basis after application, where relevant, of Articles 202 to 204 and 194.

#### ARTICLE 198

1. Where an ACP State:

—begins processing a product traditionally exported in the raw state, or

—begins exporting a product which it did not traditionally produce,

the system may be put into operation on the basis of a reference level calculated over the three years preceding the year of application.

2. In the case of the ACP States accorded the derogation

—referred to in Article 189(2), the transfer basis shall be calculated by adding to the earnings from exports of the product or products concerned to the Community the earnings from exports of those products to other ACP States;

—referred to in Article 189(3), the transfer basis shall be calculated according to the earnings from exports of the product or products concerned to all destinations.

#### ARTICLE 199

1. In order to ensure that the system functions efficiently and rapidly, statistical co-operation shall be instituted between each ACP State and the Commission.

2. The ACP States shall notify the Commission of the annual statistical data specified in the joint declaration in Annex XLIII.

3. This information must be sent to the Commission not later than 31 March in the year following that of application. Failure to do so shall result in the ACP State concerned losing all transfer rights in relation to the product or products in question for the relevant year of application.

#### ARTICLE 200

1. The system shall be implemented in respect of the products listed in Article 187 where they are:

(a) released for home use in the Community, or

(b) brought into the Community under the inward processing arrangements in order to be processed.



2. The statistics to be used to carry out the calculations referred to in Article 197 shall be those calculated and published by the Statistical Office of the European Communities.
3. In the case of ACP States accorded the derogation
  - (a) referred to in Article 189(2), the statistics relating to exports of the product or products in question to other ACP States shall be the volume exported by the ACP State concerned multiplied by the average unit value of imports by the Community as calculated and published by the Statistical Office of the European Communities or, failing those, the statistics of the ACP State concerned;
  - (b) referred to in Article 189(3), the statistics relating to exports of the product or products in question to all destinations shall be the volume exported by the ACP State concerned multiplied by the average unit value of imports by the Community as calculated and published by the Statistical Office of the European Communities or, failing those, the statistics of the ACP State concerned.
4. Should there be significant differences between the statistics of the Statistical Office of the European Communities and those of the ACP State concerned, consultation shall be held between that ACP State and the Commission.

#### ARTICLE 201

No transfer shall take place if it emerges from the examination of the dossier to be undertaken by the Commission in conjunction with the ACP State concerned that the fall in earnings from exports to the Community is the result of measures or policies involving discrimination detrimental to the Community.

#### ARTICLE 202

The transfer basis shall be reduced in due proportion to the fall in earnings from exports to the Community of the product in question if, after joint examination by the Commission and the ACP state concerned, it appears that such a drop is the consequence of trade-policy measures taken by the ACP State or through its economic operators with the aim of restricting supply; such reduction may entail the annulment of the transfer basis.

#### ARTICLE 203

Should examination of the trend of the ACP State's exports, to all destinations, of production of the product in question in the ACP State concerned and of demand in the Community reveal significant changes, consultations shall take place between the Commission and that ACP State to determine whether the transfer basis is to be maintained or reduced, and, if so, to what extent.

#### ARTICLE 204

In no case shall any transfer basis for a given product be greater than the corresponding amount calculated on the basis of the exports of the ACP State concerned to all destinations.

#### ARTICLE 205

1. The Commission shall adopt a transfer decision on completion of the examination carried out in conjunction with the ACP State; this examination shall bear on the statistical data and the calculation of the transfer basis which may give rise to a payment.
2. For each transfer a transfer agreement shall be concluded between the Commission and the ACP State concerned.

#### ARTICLE 206

1. The ACP State concerned and the Commission shall take such steps as are required to ensure that advances and transfers are made rapidly in accordance with the procedures laid down in Article 207.
2. Article 205 shall be applicable by analogy to advances.

#### ARTICLE 207

1. Provided that the ACP State concerned has sent all the necessary statistical information by 31 March in the year following that of application, in accordance with Article 199(3), the Commission shall notify each ACP State not later than 30 April following of its situations in respect of each of the products listed in Article 187(2) exported by that State during that year.
2. The ACP State concerned and the Commission shall take all possible steps to ensure that the procedures referred to in Articles 201, 202 and 203 are concluded not later than 30 June of the year in question. After this period has elapsed, the Commission shall notify the ACP States of the amount of the transfer resulting from appraisal of the dossier.
3. Without prejudice to Article 206 and not later than 31 July of the year in question the Commission shall take decisions concerning all transfers, except for those where consultations have not been concluded.
4. On 30 September of the year in question the Commission shall report to the Committee of Ambassadors on the progress made with the processing of all transfers.

#### ARTICLE 208

1. In the event of a disagreement between an ACP State and the Commission over the results of the examinations or consultations referred to in Articles 201 to 203 and 199(3), the ACP State concerned shall have the right to initiate, without prejudice to possible recourse to Article 352, a good offices procedure.
2. The good offices procedure shall be carried out by an expert appointed by agreement between the Commission and the ACP State concerned.
3. Within two months of this appointment, the conclusions of the procedure shall be communicated to the ACP State concerned and to the Commission, which shall take account of them in making the transfer decision.

The ACP State concerned and the Commission shall take all possible steps to ensure that the decision is taken not later than 31 October following receipt of the request.

4. The procedure shall not result in a delay in the processing of any other transfers for the same year of application.

#### ARTICLE 209

1. Where application of Articles 196 and 197 gives rise to a transfer basis, the ACP State concerned shall, in the month following receipt of the notification referred to in Article 207(1), send the Commission a substantial analysis of the sector recording the loss of earnings, the causes of the loss, the policies pursued by the authorities and the projects, programmes and operations to which the recipient State undertakes to allocate the resources in accordance with the objectives set out in Article 186(2).
2. Should the recipient ACP State intend, as provided for in Article 186(2), to allocate the funds to a sector other than that where the loss has occurred, it shall communicate to the Commission the reasons for this allocation.
3. Projects, programmes or operations to which the recipient ACP State undertakes to allocate the transferred resources shall be examined jointly by the Commission and the ACP State concerned.
4. Where, in the sector for which the transfer is destined, there is already an adjustment operation designed to restructure production and export activities or to achieve diversification, the resources shall be used to second these efforts and, where necessary, support any consistent reform policy in the sectors concerned.

## ARTICLE 210

When agreement is reached on the use of resources, the ACP State and the Commission shall sign a protocol setting up a framework of mutual obligations stipulating how the funds are to be used at the various stages of the operations agreed on.

## ARTICLE 211

1. The transfer shall be made in ecus upon signature of the transfer agreement referred to in Article 205(2) into an interest-bearing account, for which presentation of two signatures, of the ACP State and the Commission, shall be required. Any interest shall be credited to this account.
2. The funds in the account referred to in paragraph 1 shall be mobilized as the operations specified in the protocol on the use of the funds are implemented, on condition that the provisions of Article 212 have been complied with.
3. The procedures laid down in paragraph 2 shall be applicable by analogy to any counterpart funds generated.

## ARTICLE 212

1. Within twelve months of the mobilization of resources the recipient ACP State shall send the Commission a report on the use which it has made of the funds transferred.
2. Should the report referred to in paragraph 1 not be presented within the time-limit set or should it call for comment, the Commission shall send a request for substantiation to the ACP State concerned, which shall be obliged to reply thereto within two months.
3. Once the deadline referred to in paragraph 2 has expired, the Commission may, having referred the matter to the Council of Ministers and having duly informed the ACP State concerned, three months after completion of this procedure, suspend application of decisions on subsequent transfers until that State has provided the required information.

The ACP State concerned shall be notified of this measure immediately.

## CHAPTER 2

### Special Undertakings on Sugar

## ARTICLE 213

1. In accordance with Article 25 of the ACP-EEC Convention of Lomé signed on 28 February 1975 and with Protocol 3 annexed thereto<sup>1</sup>, the Community has undertaken for an indefinite period, notwithstanding the other provisions of this Convention, to purchase and import, at guaranteed prices, specific quantities of cane sugar, raw or white, which originates in the ACP States producing and exporting cane sugar and which those States have undertaken to deliver to it.
2. The conditions for the implementation of the aforementioned Article 25 have been laid down by Protocol 3 referred to in paragraph 1. The text of the Protocol is annexed to this Convention as Protocol 8.
3. Article 177 of this Convention shall not apply within the framework of the said Protocol.
4. For the purpose of Article 8 of the said Protocol the institutions established under this Convention may be used during the period of application of this Convention.
5. Article 8(2) of the said Protocol shall apply should this Convention cease to be operative.
6. The declarations contained in Annexes XIII, XXI and XXII of the Final Act to the ACP-EEC Convention of Lomé signed on 28 February 1975 are reaffirmed and their provisions shall continue to apply. These declarations are annexed as such to this Convention.
7. This Article and the Protocol 3 referred to in paragraph 1 shall not apply to relations between the ACP States and the French overseas departments.

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<sup>1</sup> Treaty Series No. 105 (1979) Cmnd. 7751.

## CHAPTER 3

### Mining Products:

#### Special Financing Facility (SYSMIN)

##### ARTICLE 214

1. A special financing facility shall be set up for those ACP States whose mining sectors occupy an important place in their economies and are facing difficulties that are already perceived or foreseeable in the near future.
2. Its aims are to contribute towards establishing a more solid and wider basis for the development of the ACP States while supporting their efforts:
  - to safeguard their mining production and export sectors by remedial or preventive action designed to alleviate the serious consequences for their economies of the loss of viability as a result of a decline in their production or export capacity and/or export earnings in the mining products sector following major technological or economic changes or temporary or unforeseeable disruptions beyond the control of the State concerned and of the enterprise managing the sector concerned. Particular attention shall be paid to adjusting the competitive situation of enterprises to changes in market conditions; or,
  - for States heavily dependent on exports of one mining product, to diversify and broaden the bases of their economic growth, notably by helping them complete development projects and programmes under way where these are seriously jeopardized owing to substantial falls in export earnings from that product.
3. In pursuing these objectives, this support:
  - will be adapted to the economic restructuring needs of the ACP State concerned;
  - will take into account at the time of its formulation and implementation the mutual interests of the Contracting Parties.

##### ARTICLE 215

1. The special financing facility provided for in Article 214 shall be aimed at ACP States which export to the Community and which, during at least two of the four years preceding that of the request for aid, have derived either:
  - (a) 15% or more of their export earnings from one of the following products: copper (including cobalt), phosphates, manganese, bauxite and alumina, tin, iron ore, whether or not in agglomerate form, uranium; or
  - (b) 20% or more of their export earnings from all mining products (excluding precious minerals other than gold, oil and gas).

However, for least-developed, landlocked or island ACP States, the figure stipulated in (a) shall be 10% and the figure stipulated in (b) shall be 12%.

For the calculation of the thresholds referred to in (a) and (b) earnings shall not include those from mining products not covered by the system.

2. Recourse to the special financing facility shall be possible where, in the light of the aims referred to above:
  - (a) it is perceived or expected that the viability of one or more enterprises in the mining sector has been or is about to be seriously affected following temporary or unforeseeable difficulties—whether technical, economic or political—beyond the control of the State or undertaking concerned, and where such damage to viability leads to or may lead to a significant fall in revenue for the ACP State concerned—assessed in particular on the basis of a drop in production or export capacities of the product in question of around 10%—and/or a deterioration in its external trade balance.

Foreseeable damage to viability shall be characterized by the onset of deterioration of the means of production and its impact on the country's economy; or

- (b) in cases under paragraph 1(a), it is perceived that a substantial fall in export earnings from the mining product concerned, in relation to the average for the two years before the request, is seriously jeopardizing the completion of development projects and programmes under way. To be taken into consideration, such a fall in earnings must:
- be caused by technical, economic or political difficulties and not artificially provoked, directly or indirectly, by policies and measures of the ACP State or the economic operators concerned;
  - result in a corresponding fall in total export earnings of approximately 10% at least in the year before that of the request.

The said difficulties shall refer to disruptions such as accidents, serious technical incidents, serious internal or external political events, major technological and economic changes or major changes in trade relations with the Community.

3. An ACP State may request financial aid under the special financing facility where the conditions set out in paragraphs 1 and 2 are met.

#### ARTICLE 216

1. The aid referred to in Article 215 shall be used in pursuit of the aims of the facility as set out in Article 214(2).

- Where maintenance or return to viability of the mining enterprise or enterprises affected is deemed possible and appropriate by the two parties, the aid shall be used to finance projects or programmes, including the financial restructuring of the enterprise or enterprises concerned, with a view to maintaining, re-establishing or rationalizing at a viable level the production and export capacity concerned.
- Where it is not thought possible by the two parties to maintain or restore viability, the aid shall be used to broaden the bases of economic growth through the financing of viable horizontal or vertical conversion or diversification projects or programmes.
- By common agreement, the aim of diversification may also be pursued where the economy is dependent on the mining product in question to a significant degree, even where viability can be re-established.
- Where Article 215(2)(b) is applicable, the objective of diversification shall be pursued through financial assistance to aid the completion of development projects and programmes under way outside the mining sector which are in jeopardy.

2. Any decision to allocate funds to projects or programmes shall take due account of economic interests and the social implications of such aid in the ACP State concerned and in the Community and will be adapted to the economic restructuring needs of that ACP State.

In the case of requests presented under Article 215(1)(b), the Community and the ACP State concerned shall jointly and systematically seek to establish the scope and the terms of any aid accorded in such a way that such aid does not injure competing Community mining production.

The consideration and appraisal of these factors shall be part of the analysis referred to in Article 217(2).

3. Special attention shall be accorded to:

- processing and transport operations, notably at regional level, and the proper integration of the mining sector in the country's overall economic and social development;
- preventive operations to minimize any disruptive effects by adapting technology, improving the technical and managerial skills of local staff and adapting the skills of local staff to enterprise management techniques;
- stepping up the ACP States' scientific and technical capacity for the production of new materials.

## ARTICLE 217

1. The request for aid must include information on the nature of the problems encountered, the perceived or expected consequences of the disruption both at national level and at the level of the mining enterprise or enterprises affected and indications in the form of an identification sheet on the measures or actions undertaken or desired to remedy them.

The request shall be made as soon as these consequences are identified and within a period not exceeding twelve months for making up the file.

2. Prior to any Community decision a technical, economic and financial analysis shall be made systematically of the mining sector concerned in order to assess both the eligibility of the request and the project or programme to be undertaken to utilize the aid. That analysis, which shall be very detailed, shall, in order to identify the operation, take particular account of world market prospects and, without prejudice to the first paragraph of Article 216(2), the situation of the Community market in the products concerned. It shall also include an analysis of the possible implications of such an operation for the competing mining products of Member States and the possible implications of its non-implementation for the ACP State concerned. Its objective shall be to ascertain:

- whether the viability of the means of production concerned has been or is likely to be damaged and whether that viability can be restored, or whether recourse to diversification measures is more appropriate; or
- whether the fall in export earnings referred to in Article 215(2)(b) seriously jeopardizes the implementation of development projects and programmes under way.

The analysis shall be carried out in accordance with the procedures for financial and technical co-operation. It shall require the close co-operation of the ACP State and economic operators concerned.

3. A single decision shall be taken on eligibility and the financing proposal.

The Community and the ACP State concerned shall take the necessary steps to expedite appraisal of requests so that the appropriate action may be taken swiftly.

## ARTICLE 218

1. If necessary, technical assistance for setting up and supervising the project may be financed under the facility.

2. The procedures applicable to such assistance and the detailed rules for its implementation shall be those laid down in this Convention for development finance co-operation.

## ARTICLE 219

1. For the purposes specified in Article 214 and for the period of application of the Financial Protocol annexed to this Convention, the Community shall allocate the overall amount provided for in that Protocol to cover all its commitments under this special financing facility. The amount allocated to the facility shall be managed by the Commission.

2. (a) This overall amount shall be divided into a number of equal annual instalments corresponding to the number of years of application. Each year, except the last, the Council of Ministers, on the basis of a report submitted to it by the Commission, may authorize the advance use of up to 50% of the following year's instalment where required.

(b) Any balances remaining at the end of each year of application of the Financial Protocol annexed to this Convention, except the last, shall be carried over automatically to the following year.

- (c) Consequently, the resources available for each year of application will be made up of the following elements:
- the annual instalment, less any amounts used under (a);
  - the sums carried over under (b).
- (d) If the resources available for any year of application are insufficient, the amounts provided for shall be reduced accordingly, without prejudice to subparagraphs (a), (b) and (c).
- Before expiry of the period of application of the Financial Protocol, the Council of Ministers shall decide on the allocation of any balances remaining from the overall amount.
3. The amount of the aid provided for in Article 215 shall be determined by the Commission in the light of the funds available under the special financing facility, the nature of the relevant projects and programmes, the possibilities for co-financing and the relative importance of the mining industry concerned for the economy of the ACP State.
4. Under no circumstances may a single ACP State be eligible for more than 35% of the resources available as a result of the application of paragraph 2(c). The rate shall be 15% for aid under Article 215(1)(b).
5. Aid accorded to an ACP State under the special financing facility may be on-lent by that State to the final borrower on different financial terms which shall be established in the financing decision and shall result from an analysis of the aid project conducted on the basis of the usual economic and financial criteria for the type of project planned.
6. The analysis referred to in Article 217 shall be financed from resources of the facility.
7. In exceptional circumstances arising out of an emergency, confirmation and proof of which will have to be provided initially by the analysis, an ACP State which so requests may be granted an advance by way of partial pre-financing of the project or programme which it precedes.

### TITLE III

#### Development Finance Co-operation

##### CHAPTER I

##### General Provisions

##### SECTION I

##### Objectives

##### ARTICLE 220

The objectives of development finance co-operation shall be, through the provision of adequate financial resources and appropriate technical assistance, to:

- (a) support and promote the efforts of ACP States to achieve long-term, self-determined, self-reliant and self-sustained integrated social, cultural and economic development, on the basis of mutual interest and in a spirit of interdependence;
- (b) help raise the standard of living and improve the well-being of the peoples of the ACP States;
- (c) promote measures likely to mobilize the capacity for initiative of communities and the participation of those concerned in the design and implementation of development projects;
- (d) contribute to the fullest participation of the population in the benefits of development;
- (e) contribute to the development of the capacity of the ACP States to innovate, adapt and transform technology;

- (f) contribute to optimal and judicious exploration, conservation, processing, transformation and exploitation of the ACP States' natural resources in order to enhance the efforts of ACP States to industrialize and to achieve economic diversification;
- (g) provide support for and promote the optimal development of human resources in the ACP States;
- (h) facilitate an increase in the financial flows to the ACP States which are responsive to the evolving needs of the ACP States and support the efforts of the ACP States to harmonize international co-operation for their development through co-financing of operations with other financing agencies or third parties;
- (i) contribute to the attenuation of the debt burden, which is a major constraint on the development prospects of ACP States, by ensuring greater non-debt-creating transfers, and by developing and implementing in a co-ordinated and integrated way the different instruments of this Convention;
- (j) promote and mobilize resources in support of sustainable, effective and growth-oriented adjustment programmes;
- (k) seek new approaches to direct private investment promotion in ACP States; support the development of a healthy, prosperous and dynamic ACP private sector and encourage domestic and foreign private investment flows into the productive sectors in the ACP States;
- (l) encourage intra-ACP co-operation and regional co-operation among ACP States;
- (m) permit the establishment of more balanced economic and social relations and better understanding between the ACP States, Member States of the Community and the rest of the world, with a view to achieving a new international economic order;
- (n) enable the ACP States faced with serious economic and social difficulties of an exceptional nature resulting from natural disasters or extraordinary circumstances having comparable effects to benefit from emergency assistance;
- (o) help the least-developed, landlocked and island ACP States to overcome the specific obstacles which hamper their development efforts.

## SECTION 2

### Principles

#### ARTICLE 221

Development finance co-operation shall:

- (a) be implemented on the basis of and be consistent with the development objectives, strategies and priorities established by the ACP States, at both national and regional levels with due regard to their respective geographical and cultural characteristics, as well as their specific potential;
- (b) be provided on very highly concessional terms;
- (c) ensure that resource flows are on a more predictable and continuous basis;
- (d) ensure participation by the ACP States in the management and utilization of financial resources and ensure effective decentralization of decision-making powers;
- (e) strengthen and utilize, as much as possible, the ACP States' human resources and existing administrative structures;
- (f) be flexible and appropriate to the situation in each ACP State as well as adapted to the specific nature of the project or programme concerned;
- (g) be carried out with a minimum of administrative formalities using simple and rational procedures so that projects and programmes may be implemented rapidly and efficiently;
- (h) ensure that technical assistance is provided only upon the request of the ACP State or States and is of the stipulated quality, relevant, cost-effective and includes arrangements for rapid and effective training of ACP replacement personnel.



### SECTION 3

#### **Guidelines**

#### ARTICLE 222

1. Operations financed within the framework of this Convention shall be implemented by the ACP States and the Community in close co-operation, the concept of equality between the partners being recognized.
2. The ACP States shall be responsible for:
  - (a) defining the objectives and priorities on which the indicative programmes are based;
  - (b) choosing projects and programmes;
  - (c) preparing and presenting the dossiers of projects and programmes;
  - (d) preparing, negotiating and concluding contracts;
  - (e) implementing and managing projects and programmes;
  - (f) maintaining projects and programmes.
3. The ACP States and the Community shall be jointly responsible for:
  - (a) establishing within the joint institutions the guidelines for development finance co-operation;
  - (b) adopting the indicative programmes;
  - (c) appraising projects and programmes;
  - (d) ensuring equality of conditions for participation in invitations to tender and contracts;
  - (e) monitoring and evaluating the effects and results of projects and programmes;
  - (f) ensuring the proper, prompt and efficient execution of projects and programmes.
4. The Community shall be responsible for taking financing decisions on projects and programmes.

#### ARTICLE 223

Unless otherwise provided in the Convention, all decisions requiring the approval of either Contracting Party shall be approved, or be deemed approved within 60 days of notification by the other party.

### SECTION 4

#### **Scope of Financing**

#### ARTICLE 224

*Within the framework of the Convention, development finance co-operation shall cover:*

- (a) capital projects and programmes;
- (b) rehabilitation of projects and programmes;
- (c) sectoral and general import support programmes, in accordance with Article 225, which may take the form of:
  - (i) sectoral import programmes (SIPs) through direct procurement,
  - (ii) sectoral import programmes (SIPs) in the form of foreign exchange released in instalments for financing sectoral imports and/or
  - (iii) general import programmes (GIPs) in the form of foreign exchange released in instalments for financing general imports covering a wide range of products;
- (d) budgetary support to alleviate domestic financial constraints through the use of counterpart funds generated by the various Community instruments;
- (e) support for measures which contribute to attenuate the debt burden and balance of payments problems;

- (f) technical co-operation programmes;
- (g) deployment of flexible resources in support of the efforts of grassroots communities;
- (h) recurrent costs (including current administrative, operating, and maintenance costs, both local and foreign) of new, on-going and completed projects and programmes;
- (i) on a case-by-case basis, supplementary expenses borne by the ACP States arising out of and strictly relating to the administration and the supervision of projects and programmes financed by the European Development Fund, hereinafter referred to as "the Fund";
- (j) credit lines, and support of regional payment mechanisms and export credit operations in the ACP States;
- (k) equity participation;
- (l) a combination of all or part of the above components integrated into sectoral development programmes.

#### ARTICLE 225

Sectoral import programmes shall be provided, upon request, from the resources of the indicative programme to support the measures taken by the ACP State concerned in the sector or sectors for which the assistance is requested in accordance with Article 281. The purpose of import programmes is to contribute to the optimal functioning of the productive sectors of the economy, to assist in the expansion of production and export capacity, to facilitate the transfer or development of technology and to help meet basic human needs. Import programmes may include the financing of inputs to the productive system such as capital and intermediate goods, raw materials, spare parts, fertilizers, insecticides and supplies to improve health and education services and standards. In addition, the resources provided under structural adjustment support may be used for sectoral import programmes as referred to in Article 224(c)(i) and (ii), and for general import programmes as referred to in Article 224(c)(iii).

#### ARTICLE 226

Counterpart funds generated from various Community instruments shall, except otherwise provided for, be used in a targeted way for the financing of local expenditure under:

- (a) Fund projects and programmes within the indicative programme;
- (b) other agreed projects and programmes;
- (c) specific budget headings under public expenditure programmes of the ACP States such as those relating to health, education, training, job creation and protection of the environment;
- (d) measures to attenuate the negative social consequences of structural adjustment; such measures may include:
  - (i) assistance to indigenous organizations such as co-operatives and other types of mutual-help ventures;
  - (ii) nutrition and health support for target groups and the modernization of health facilities;
  - (iii) re-training;
  - (iv) the provision of pre-primary and primary education, particularly in depressed areas;
  - (v) rehabilitating, maintaining and upgrading social and economic infrastructure;
  - (vi) the payment of redundancy benefits to public or semi-public workers made redundant, or as a contribution towards keeping them in employment for a specific period, or as a form of assistance for finding alternative employment;
  - (vii) the provision or subsidization of basic tools;
  - (viii) small labour-intensive projects which can be used to create employment for the unskilled, youths and women and at the same time be used to provide training and help to rehabilitate or develop the infrastructure in both rural and urban areas;

- (ix) strengthening of the management capacity of the ACP State to administer social programmes;
- (x) appropriate measures to assist women, the aged, the handicapped and other vulnerable groups, for whom the social consequences of adjustment can be particularly severe.

#### ARTICLE 227

1. Recurrent cost financing (to cover administrative, maintenance and operating expenses) may be granted to an ACP State, 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 State concerned and the running of which temporarily constitutes a burden for the ACP State or other eligible beneficiaries. Such support may, for new, ongoing or past projects and programmes, cover current administrative, maintenance and operating expenses such as:

- (a) expenditure incurred in the start-up period, for setting up, launching and operating the capital projects or programmes in question;
- (b) the cost of operating, maintaining and/or managing capital projects and programmes implemented earlier.

2. Special treatment shall be accorded to the financing of recurrent cost in the least developed ACP States.

#### ARTICLE 228

The funds provided under the Convention may be used to cover the total costs of both the local and foreign expenditure of projects and programmes.

### SECTION 5

#### Sectors of Intervention

#### ARTICLE 229

1. Within the framework of the priorities established by the ACP State or States concerned at both national and regional level, support may be given to projects and programmes in every sector or area referred to in this Convention and may, *inter alia*, be in:

- (a) agricultural and rural development, and in particular food self-sufficiency and food security programmes;
- (b) industrialization, artisanal activities, energy, mining and tourism;
- (c) economic and social infrastructure;
- (d) structural improvement of the productive sectors of the economy;
- (e) preservation and protection of the environment;
- (f) prospecting for, exploration and exploitation of, natural resources;
- (g) education and training programmes, basic and applied scientific research and applied technology, technological adaptation or innovation and the transfer of technology;
- (h) industrial promotion and information;
- (i) marketing and trade promotion;
- (j) promotion, development and reinforcement of small and medium-sized national and regional enterprises;
- (k) support to national and regional development banks and financial institutions, and to clearing and payment institutions which are designed to promote regional and intra-ACP trade;
- (l) micro-projects for grassroots development;
- (m) transport and communications, including promotion of sea and air transport;
- (n) fisheries development;

- (o) development and optimal utilization of human resources, special account being taken of the role of women in development;
  - (p) improvement of social and cultural infrastructure and services including health, housing, water supply etc.;
  - (q) assisting ACP and ACP-EEC professional and business organizations with the aim of improving production and marketing of products on external markets;
  - (r) support for structural adjustment programmes, thus contributing also to debt-attenuation measures;
  - (s) investment promotion and support measures;
  - (t) support for development operations put forward by economic, cultural, social and educational organizations in the framework of decentralized co-operation, in particular where they combine the efforts and resources of ACP organizations and of their Community counterparts.
2. The projects and programmes may also concern operations on specific themes, such as:
- (a) drought and desertification control and protection of natural resources;
  - (b) assisting ACP States in the fields of disaster prevention and preparedness, including prediction and early-warning systems, with a view to reducing the consequences of disasters;
  - (c) control of endemic human diseases and epidemics;
  - (d) hygiene and primary health care;
  - (e) control of endemic livestock diseases;
  - (f) measures to save energy;
  - (g) long-term operations, in general, which extend beyond any specific time-scale.

## SECTION 6

### Eligibility for Financing

#### ARTICLE 230

1. The following entities or bodies shall be eligible for financial support provided under the Convention:
- (a) ACP States;
  - (b) regional or inter-state bodies to which one or more ACP States belong and which are authorized by those States;
  - (c) joint bodies set up by the ACP States and the Community to pursue certain specific objectives.
2. Subject to the agreement of the ACP State or ACP States concerned, the following shall also be eligible for financial support:
- (a) national and/or regional public or semi-public agencies, departments or local authorities of the ACP States and in particular their financial institutions and development banks;
  - (b) companies and firms of ACP States;
  - (c) enterprises of a Community Member State to enable them, in addition to their own contribution, to undertake productive projects in the territory of an ACP State;
  - (d) ACP or Community financial intermediaries providing financing to small and medium-sized enterprises, as well as financial institutions promoting and financing private investments in ACP States;
  - (e) groups of producers who are nationals of the ACP States;
  - (f) award holders and trainees;
  - (g) ACP as well as Community local communities, co-operatives, trade unions, non-governmental organizations, and teaching and research institutions to enable them to undertake economic, cultural, social and educational projects and programmes in the ACP States in the framework of decentralized co-operation.

## CHAPTER 2

### Financial Co-operation

#### SECTION 1

#### Financial Resources

##### ARTICLE 231

For the purposes set out in the present Title, the overall amount of the Community's financial assistance is provided for in the Financial Protocol to this Convention.

##### ARTICLE 232

1. Should an ACP State fail to ratify or denounce this Convention, the Contracting Parties shall adjust the amounts of the resources provided in the Financial Protocol.
2. Such adjustment shall also apply upon:
  - (a) the accession to the Convention of new ACP States which did not take part in its negotiation;
  - (b) the enlargement of the Community.

#### SECTION 2

#### Terms and Conditions of Financing

##### ARTICLE 233

1. Projects or programmes may be financed by grant or by risk capital from the Fund, or by loans from the Bank's own resources, or jointly by two or more of these means of financing.
2. The methods of financing for each project or programme shall be determined jointly by the ACP State or States concerned and the Community by reference to:
  - (a) the level of development, the geographical situation and economic and financial circumstances of these States;
  - (b) the nature of the project or programme, its economic and financial return as well as its social and cultural impact; and
  - (c) in the case of loans, to factors guaranteeing their servicing.
3. Financial assistance may be made available to or through the ACP States concerned or, subject to their agreement, either through eligible financial institutions or directly to any other eligible beneficiary.
4. Where financial assistance is granted to the final recipient through an intermediary:
  - (a) the terms on which the assistance may be made available by the intermediary to the final recipient shall be laid down in the financing agreement or loan contract; and
  - (b) any financial benefit accruing to the intermediary from the on-lending transaction shall be used for development purposes, on the conditions laid down in the financing agreement or the loan contract, after taking into account administrative costs, exchange and financial risks, and the cost of technical assistance given to the final recipient.

#### ARTICLE 234

1. Risk capital may be provided in the form of loans or equity participation.
  - (a) In the case of loans, it may be provided mainly in the form of:
    - (i) subordinated loans, which shall be redeemed and in respect of which interest, if any, shall be paid only after other claims have been settled;
    - (ii) conditional loans, the servicing and/or the duration of which shall be linked to the fulfilment of certain conditions with regard to the performance of the project financed such as profit or target output. The specific terms shall be laid down when the loan is made.
  - (b) In the case of equity participation, it may be provided to acquire temporary minority holdings on behalf of the Community in the capital of ACP enterprises or institutions *financing development projects in the ACP States or of ACP financial institutions promoting and financing private investment in the ACP States*. Such holdings shall be transferred to nationals or institutions of the ACP States or as otherwise agreed with the ACP State concerned, once the conditions specified for the purpose are met.
  - (c) The terms of risk capital operations shall depend on the characteristics of each project or programme financed and shall in general be more favourable than those of subsidized loans. In the case of loans the interest rate shall, in any case, be less than 3%.
2. In order to minimize the effects of exchange rate fluctuations, the problem of exchange rate risk shall be dealt with in the following way:
  - (a) in the case of risk capital operations designed to strengthen an enterprise's own funds the exchange rate risk shall as a general rule be borne by the Community;
  - (b) in the case of risk capital financing for investments of private sector firms and small and medium-sized enterprises, hereinafter referred to as "SMEs", the exchange rate risk shall be shared by the Community, on the one part, and by the other parties involved, on the other. On average, the foreign exchange risk shall be shared equally.

#### ARTICLE 235

Loans from the Bank's own resources shall be granted under the following terms and conditions:

- (a) the rate of interest before subsidy shall be the rate applied by the Bank for the currencies, duration and repayment conditions adopted for the loan on the day of signature of the contract;
- (b) this rate shall be reduced by means of a 4% subsidy. The rate of subsidy shall be automatically adjusted so that the interest rate borne by the borrower will be neither less than 3% nor more than 6% for a loan contracted at the reference rate. The reference rate adopted for calculating the adjustment in the rate of subsidy shall be the rate for the ecu applied by the Bank for a loan with the same conditions as to duration and repayment on the day of signature of the contract;
- (c) the amount of the interest rate subsidy calculated in terms of its value at the times of disbursement of the loan shall be charged against the amount of grants and paid directly to the Bank;
- (d) the duration of loans made by the Bank from its own resources shall be governed by terms stipulated on the basis of the economic and financial characteristics of the project, but may not exceed 25 years. These loans shall normally comprise a grace period fixed by reference to the construction period and the funds needed for the project.

#### ARTICLE 236

The Bank shall:

- (a) contribute, through the resources it manages, to the economic and industrial development of the ACP States on a national and regional scale; and to this end, finance in the first place, productive projects and programmes in industry, agro-industry, tourism, mining, energy and in transport and telecommunications linked to

these sectors. These sectoral priorities shall not exclude the possibility of the Bank's financing, from its own resources, productive projects and programmes in other sectors, including commercial agriculture;

- (b) establish close co-operation links with national and regional development banks and with banking and financial institutions of the ACP States;
- (c) in consultation with the ACP State concerned, adapt the arrangements and procedures for implementing development finance co-operation, as set out in this Convention, if necessary, to take account of the nature of the projects and programmes and to act in accordance with the objectives of this Convention, within the framework of the procedures laid down by its statute.

#### ARTICLE 237

The ACP States concerned shall in respect of loans granted or equity participation under the Convention, and in respect of which they have given their written approval:

- (a) grant exemption from all national or local duties, fiscal charges on interest, commissions and amortization of loans due in accordance with the law or laws of the ACP State or States concerned;
- (b) place at the disposal of the beneficiaries the currency necessary for the payment of interest, commission and the amortization of loans due in terms of financing contracts granted for the implementation of projects and programmes on their territories;
- (c) make available to the Bank, the foreign currency necessary for the transfer of all sums received by it in national currency at the exchange rate applicable between the ecu, or other currencies of transfer, and the national currency at the date of the transfer, which represent the net revenue and proceeds from transactions involving the acquisition by the Community of holdings in the capital of companies or firms.

#### ARTICLE 238

Special treatment shall be accorded to the least-developed ACP States when determining the volume of the financial resources which such States may expect from the Community for the purpose of their indicative programmes. In addition, account shall be taken of the particular difficulties of the landlocked or island ACP States. These financial resources shall be combined with more favourable terms of financing, having regard to the economic situation and the nature of the needs specific to each State. They shall consist essentially of grants, and, in appropriate cases, of risk capital or loans from the Bank, having regard in particular to the criteria laid down in Article 233(2).

### SECTION 3

#### **Debt and Structural Adjustment Support**

##### **Debt**

#### ARTICLE 239

1. The ACP States and the Community share the view that the external debt situation of ACP States has emerged as a major development issue, and that the associated heavy debt-servicing obligations contribute to constraints on import capacity and the level of investments in these States, thus affecting their growth and development.
2. The ACP States and the Community reaffirm their determination to develop and implement in a co-ordinated and integrated way the different instruments of the Convention and to implement the following measures with a view to contributing to the attenuation of the debt burden of the ACP States and their balance of payment problems with a view to stimulating economic recovery and growth.

#### ARTICLE 240

1. In order to avoid increases in the debt of ACP States, finance under this Convention, apart from Bank loans and risk capital, is provided in the form of grants. Specifically the following measures and actions will be taken:

- (a) for projects with high rates of return, and in particular for SYSMIN financing, a two-stage procedure will be followed whereby ACP States will receive grants and will on-lend the funds at appropriate market terms and conditions, with suitable arrangements for deposit of interest and repayment, less an agreed service charge, in a counterpart fund account, managed according to normal procedures as agreed for this type of finance generated from Community assistance;
- (b) STABEX transfers will be granted without any obligation for the beneficiary ACP States to reconstitute the resources of the system.

2. In addition, the Community agrees to:

- (a) enable, on a case-by-case basis, the acceleration of the use of the resources of past indicative programmes which have not been committed through the quick-disbursing instruments provided for in this Convention in order to contribute to the attenuation of the debt burden;
- (b) grant, at the request of an ACP State:
  - (i) assistance in studying and finding practical solutions to indebtedness, debt-servicing difficulties and balance of payments problems;
  - (ii) training in external debt management and international financial negotiations as well as support for training workshops, courses and seminars in these fields;
  - (iii) assistance to ACP States in developing flexible techniques and instruments of debt management to deal with unanticipated interest rate and exchange rate variations;
- (c) encourage its institutions, including the Bank, to play a more active role in catalysing new flows of finance to debt-affected ACP States.

#### ARTICLE 241

1. The Community commits itself to support the ACP States' efforts to:

- (a) undertake reforms with a view to improving the performance of the economy;
- (b) strengthen their external debt management mechanisms at national level so as to exercise more effective control over external borrowing by the public sector and monitor private sector borrowing;
- (c) reverse the outflow of capital;
- (d) intensify their efforts to reduce inflation and implement measures designed to increase domestic savings;
- (e) introduce concrete measures to improve the quality of investment in both the public and private sectors;
- (f) give adequate incentives to projects that generate or save foreign exchange;
- (g) as a long-term objective, develop sub-regional capital markets which can serve as effective mechanisms for tapping ACP surplus funds invested abroad;
- (h) adopt measures aimed at increasing intra-ACP trade through the use of existing subregional and regional payments mechanisms and encourage clearing arrangements and credit insurance in all intra-ACP trade transactions.

#### ARTICLE 242

In order to contribute to the servicing of the debt resulting from Community loans from the Bank's own resources, special loans and risk capital, the ACP States may, in accordance with arrangements to be made on a case-by-case basis with the Commission, use the available foreign currency referred to in Article 319 for such servicing, as and when debt repayment falls due and up to the amount required for payments in national currency.



## **Structural Adjustment Support**

### **ARTICLE 243**

The ACP States and the Community recognize that the economic and social problems being experienced by ACP States are the result of both internal factors and external developments. They see the need for urgent action and share the view that short and medium-term policies must reinforce the long-term development efforts and goals of ACP States. To this end, they have agreed that the Convention should provide Structural Adjustment Support to assist ACP States in their effort to:

- (a) create an economic environment favourable to a resumption of, or to an acceleration in, the growth of GDP and employment;
- (b) improve the social and economic well-being of the population as a whole;
- (c) improve public sector management and provide appropriate private sector incentives;
- (d) increase the level of productivity in the key sectors of the economy;
- (e) achieve greater economic diversification as part of the effort to develop a larger measure of resilience in the economy and to reduce domestic and external imbalances while maintaining GDP growth;
- (f) improve balance-of-payments performance and the foreign-exchange position;
- (g) ensure that adjustment is economically viable and socially and politically bearable.

### **ARTICLE 244**

Adjustment support shall be administered on the basis of the following principles:

- (a) the ACP States shall bear primary responsibility for the analysis of the problems to be solved and the preparation of reform programmes;
- (b) support programmes shall be adapted to the different situation in each ACP State and be sensitive to the social conditions, culture and environment of these States;
- (c) assistance shall be supportive of the ACP State's priority development objectives such as agricultural and rural development, food security, PMDT, and environmental protection and contribute to the attenuation of the debt burden;
- (d) adjustment support shall take place within the framework of the political and economic model of the ACP State concerned;
- (e) the right of the ACP States to determine the direction of their development strategies and priorities shall be recognized and respected;
- (f) both the reform and the support programme shall make provision from the outset to deal with the negative social effects that may result from the process of adjustment efforts, in pursuit of the objectives of economic growth and social justice, particular attention being paid to the most vulnerable groups in the society including the poor, the unemployed, women and children;
- (g) the pace of the reform programmes shall be realistic and compatible with each ACP State's capacities and resources, while the implementation of support programmes shall be flexible and adapted to the management capacity of the ACP State concerned;
- (h) quick disbursement shall be an important feature of support programmes;
- (i) support shall be given in the context of a joint assessment between the Community and the ACP State concerned on the reform measures being undertaken or contemplated either at a macro-economic or sectoral level.

### **ARTICLE 245**

1. For purposes of structural adjustment support, Community financial assistance shall be given in form of grants:

- (a) as provided for in Article 1 of the Financial Protocol, and
- (b) from the indicative programme, in accordance with Article 281(2)(e).

2. On the expiry of the Financial Protocol, appropriations set aside for structural adjustment support and not committed shall be paid back, save as otherwise decided by the Council of Ministers, to the assets of the Fund for the purpose of financing other operations falling within the scope of development finance co-operation, notably those relating to programmable assistance.

#### ARTICLE 246

1. All ACP States shall in principle be eligible for structural adjustment assistance depending on the scope of the reforms being undertaken or contemplated at the macroeconomic or sectoral level, their effectiveness, and their likely impact on the economic, social and political dimension of development, and on economic and social hardships being experienced, as reflected, by indicators such as:

- (a) the level of indebtedness and the debt service burden;
- (b) balance of payments difficulties;
- (c) the budgetary situation;
- (d) the monetary situation;
- (e) the rate of growth of real national income;
- (f) the level of unemployment;
- (g) the situation in social areas such as nutrition, housing, health and education.

2. ACP States undertaking reform programmes that are acknowledged and supported at least by the principal multilateral donors, or that are agreed with such donors but not necessarily financially supported by them, shall be treated as having automatically satisfied the requirements for adjustment assistance.

3. In assessing the social and economic hardships referred to in paragraph 1, particular attention will be given to the least-developed ACP States.

#### ARTICLE 247

1. The resources earmarked for structural adjustment support may be mobilized either at the beginning of or during the Financial Protocol period, at the request of the ACP State concerned.

2. Such support for adjustment effort shall take the form of:

- (a) sectoral or general import programmes in accordance with Articles 224(c) and 225;
- (b) technical assistance related to structural adjustment support programmes.

3. In addition, with a view of alleviating the ACP States' domestic financial constraints, counterpart funds generated by various Community instruments may be used in accordance with Article 226.

4. Structural adjustment support shall be implemented flexibly and the instruments chosen on a case-by-case basis.

A GIP designed in keeping with the approach to structural adjustment support laid down in the Convention will usually be the most appropriate instrument for countries carrying out macro-economic reforms. In the case of sectoral adjustment, the assistance will be given in the form of an SIP in kind or in foreign currency.

An SIP could also be used in a situation of macro-economic reforms with a view to achieving a greater sectoral impact.

#### ARTICLE 248

The implementation of each support programme shall:

- (a) be adapted to the needs of each recipient State;
- (b) ensure consistency between the use of the different support instruments and the approach of structural adjustment as defined in Articles 243 and 244;

- (c) ensure that the eligibility of ACP economic operators for access to the resources of the programme is as wide and transparent as possible and that the best price/quality ratio is obtained on imported goods. To this end, this Convention's tendering procedures must be applied flexibly in order to:
  - ensure the rapidity of disbursements;
  - minimize the administrative burden on the State concerned;
  - accord with the administrative and commercial practices of that State;
- (d) be the subject of an agreement between the Commission and the ACP body in charge of the implementation of the programme.

#### ARTICLE 249

In order to increase the flow of financial resources the Community, with the agreement of the ACP State concerned, may enter into co-financing arrangements with other donors or agencies. The various provisions of this Convention on co-financing shall apply. To this end and in order to ensure effective use of resources and to minimize delays, efforts shall be made, subject to the agreement of the ACP State concerned and with its effective participation, to:

- (a) co-ordinate the approach of the various donors towards structural adjustment support;
- (b) co-ordinate operational implementation in a simple and cost-effective manner.

#### ARTICLE 250

1. The ACP State's request for structural adjustment support shall contain the broad outline of the underlying problems being addressed by the ACP State and of the measures and actions being implemented or contemplated, the areas in which support is required, the social repercussions being experienced or envisaged and proposals to deal with them, as well as the cost estimates of the support programme for which assistance is being sought and the duration or likely period of completion.

2. The preparation, appraisal and financing decision for structural adjustment programmes shall be carried out according to the provisions on implementation procedures of Chapter 5 with due regard to the need to ensure the quick disbursing feature of structural adjustment programmes. On a case-by-case basis, retroactive financing of a limited part of imports of ACP/EEC origin may be permissible.

3. In the case of foreign exchange programmes, funds will be transferred to an ecu-denominated bank account opened by the ACP States concerned in a Community Member State from which all disbursement covered by the programme shall be made. Such funds will be considered as an advance to be cleared by the submission of justification of the use of funds.

#### SECTION 4

#### Co-Financing

#### ARTICLE 251

1. The financial resources provided for in this Convention may be applied, at the request of the ACP States, to co-financing (undertaken in particular with development agencies and institutions, Community Member States, ACP States, third countries or international or private financial institutions, firms, or export credit agencies).

2. Special consideration shall be given to the possibility of co-financing in the following cases, among others:

- (a) large-scale projects which cannot be financed exclusively by any one source of financing alone;
- (b) projects in which Community participation, and an input of its project expertise, might facilitate the participation of other additional sources of finance;

- (c) projects which may benefit from a blend of concessionary and non-concessionary financing;
  - (d) projects which may be broken down into sub-projects which could be eligible for financing from different sources;
  - (e) projects for which a diversification of financing may lead to an advantageous solution from the point of view of the financing and investment costs and of other aspects of the implementation of the said projects;
  - (f) projects of a regional or inter-regional nature.
3. Co-financing may be in the form of joint or parallel financing. Preference will be given in each case to the solution which is more suitable from the point of view of cost-effectiveness.
4. With the agreement of the parties concerned:
- (a) measures shall be taken to co-ordinate and harmonize operations of the Community and those of other co-financing bodies, in order to minimize the number of procedures to be undertaken by the ACP States and to render those procedures more flexible, notably as regards:
    - (i) the needs of other co-financing bodies and recipients;
    - (ii) the choice of projects to be co-financed and the arrangements for carrying them out;
    - (iii) the harmonization of works, supply and services contracts rules and procedures;
    - (iv) the payment terms;
    - (v) the rules of eligibility and competition;
    - (vi) the margin of preference granted to ACP enterprises;
  - (b) the process of consultation and co-ordination with other donors and co-financiers should be strengthened and developed, where possible, through the establishment of co-financing framework agreements, and co-financing policies and procedures should be reviewed to ensure effectiveness and the best terms possible;
  - (c) the Community may provide the other co-financing bodies with administrative help or may act as a lead or co-ordinating agency for projects part-financed by it in order to facilitate the implementation of co-financed projects or programmes.

## SECTION 5

### Micro-Projects

#### ARTICLE 252

1. In order to respond to the needs of local communities with regard to development, the Fund shall, at the request of the ACP State concerned, participate in the financing of micro-projects at local level which:
- (a) have an economic and social impact on the life of the people,
  - (b) meet a demonstrated and observed priority need, and
  - (c) will be undertaken at the initiative and with the active participation of the local community which will benefit therefrom.
2. Contributions for micro-projects shall be made:
- (a) by the local community concerned, in kind or in the form of services or cash and adapted to its capacity to contribute;
  - (b) by the Fund, in which case the contribution shall not normally exceed three-quarters of the total cost of each project and may not exceed ECU 300,000;
  - (c) exceptionally, by the ACP State concerned, either in the form of a financial contribution or through the use of public equipment or the supply of services.
3. The amounts representing the Fund's contribution shall be drawn from the grant allocation of the national indicative programme.
4. Special priority shall be accorded to the preparation and implementation of micro-projects in the least-developed ACP States.

## ARTICLE 253

With the agreement of the ACP States concerned, at the request of the ACP local communities concerned and in accordance with the provisions on multiannual micro-project programmes in Article 290, ACP and Community non-profit organizations may, in addition to the possibilities of co-financing, co-ordinate, supervise or implement individual micro-projects and/or multinational micro-project programmes.

## SECTION 6

### Emergency Assistance

#### ARTICLE 254

1. Emergency assistance shall be accorded to ACP States faced with serious economic and social difficulties of an exceptional nature resulting from natural disasters or extraordinary circumstances having comparable effects. The assistance, which is intended to make, by the most suitable means, a real contribution to remedying the immediate difficulties:

- (a) shall be sufficiently flexible to take any form adapted to the circumstances, including the supply of a wide range of relief goods and services and/or the distribution of cash to victims;
- (b) may also cover the financing of immediate measures to make damaged structures and equipment operational again and to ensure minimum viability;
- (c) shall be non-reimbursable and made available quickly and easily.

2. The Community shall take adequate steps to facilitate speedy action which is required to meet the immediate needs for which emergency assistance is intended. To this end:

- (a) funds provided under emergency assistance must be fully committed and disbursed and action completed within 180 days of the establishment of the implementation arrangements unless otherwise stipulated by common agreement;
- (b) where the funds made available have not all been fully disbursed within the time-limit set, or such other agreed time-limit as referred to in paragraph (a), then the balance shall be paid back into the special appropriation referred to in the Financial Protocol;
- (c) the detailed rules for the allocation and implementation of emergency assistance shall be the subject of emergency and flexible procedures;
- (d) funds may be used for the retroactive financing of immediate relief measures undertaken by the ACP States themselves.

#### ARTICLE 255

1. Assistance may be granted to ACP States taking in refugees or returnees to meet acute needs not covered by emergency assistance, to implement in the longer term projects and action programmes aimed at self-sufficiency and the integration or reintegration of such people.

2. Similar assistance, as set out in paragraph 1, may be envisaged to help with the voluntary integration or reintegration of persons who have had to leave their homes as a result of conflicts or natural disasters. In implementing this provision account shall be taken of all the factors leading to the displacement in question including the wishes of the population concerned and the responsibilities of the government in meeting the needs of its own people.

3. Underlining the developmental nature of the assistance granted in accordance with this article, assistance may be used together with the indicative programme of the State concerned.

4. Such assistance shall be administered and implemented under procedures permitting flexibility and rapid action. Special attention shall be paid to the most effective manner of providing such assistance to the population concerned. Conditions for payment and implementation shall be laid down case by case. The assistance may be implemented, if the ACP States so agrees, in conjunction with specialized organizations, including those of the United Nations, or by the Commission direct.

#### ARTICLE 256

Contracts under emergency assistance shall be awarded on the basis of the relevant rules provided for in Section 5 of Chapter 5.

#### ARTICLE 257

Post-emergency action, aimed at physical and social rehabilitation consequent on the results of natural disasters or extraordinary circumstances having comparable effects, may be undertaken with Community assistance under this Convention. The post-emergency needs may be covered by other resources, in particular the counterpart funds generated by Community instruments, the special appropriation for refugees, returnees, and displaced persons, the national or regional indicative programmes or a combination of these different elements.

These needs may also be covered, subject to the provisions of Article 2 of the Financial Protocol, by the unexpended balance of the special appropriation for emergency assistance remaining upon expiry of that Protocol.

### CHAPTER 3

#### Investment

##### SECTION 1

#### Investment Promotion

#### ARTICLE 258

The ACP States and the Community, recognizing the importance of private investment in the promotion of their development co-operation and acknowledging the need to take steps to promote such investment, shall:

- (a) implement measures to encourage participation in their development efforts by private investors who comply with the objectives and priorities of ACP-EEC development co-operation and with the appropriate laws and regulations of their respective States;
- (b) accord fair and equitable treatment to such investors;
- (c) take measures and actions which help to create and maintain a predictable and secure investment climate as well as enter into negotiations on agreements which will improve such climate;
- (d) promote effective co-operation amongst ACP and between ACP and Community economic operators in order to increase the flow of capital, management skills, technology and other forms of know-how;
- (e) facilitate a greater and more stable flow of resources from the Community private sector to the ACP States by contributing to the removal of obstacles which impede the ACP States' access to international capital markets, and in particular within the Community;
- (f) create an environment which encourages the development of financial institutions and the mobilization of resources which are essential to capital formation and the growth of entrepreneurship;
- (g) promote the development of enterprises by taking such steps as are necessary to improve the business environment and, in particular, foster a legal, administrative and incentive framework which is conducive to the emergence and development of dynamic private sector enterprises including grass roots operations;
- (h) strengthen the capacity of national institutions in ACP States to provide the range of services which can encourage greater national participation in business activity.

## ARTICLE 259

In order to encourage private investment flows and the development of enterprises, the ACP States and the Community, in co-operation with other interested bodies, shall within the framework of the Convention:

- (a) support efforts aimed at promoting European private investment in the ACP States by organizing discussions between any interested ACP State and potential investors on the legal and financial framework that ACP States might offer to investors;
- (b) encourage the flow of information on investment opportunities by organizing investment promotion meetings, providing periodic information on existing financial or other specialized institutions, their facilities and conditions and encouraging the establishment of focal points for such meetings;
- (c) encourage the dissemination of information on the nature and availability of investment guarantees and insurance mechanisms to facilitate investment in ACP States;
- (d) provide assistance to small and medium-sized enterprises in ACP States in designing and obtaining equity and loan financing on optimal terms and conditions;
- (e) explore ways and means of overcoming or reducing the host-country risk for individual investment projects which could contribute to economic progress;
- (f) provide assistance to ACP States in:
  - (i) creating or strengthening the ACP States' capacity to improve the quality of feasibility studies and the preparation of projects in order that appropriate economic and financial conclusions might be drawn;
  - (ii) producing integrated project management mechanisms covering the entire project development cycle within the framework of the development programme of the State.

## SECTION 2

### Investment Protection

#### ARTICLE 260

The Contracting Parties affirm the need to promote and protect either party's investments on their respective territories, and in this context affirm the importance of concluding between States, in their mutual interest, investment promotion and protection agreements which could also provide the basis for insurance and guarantee schemes.

#### ARTICLE 261

1. A Contracting State may request the negotiation of an investment promotion and protection agreement with another Contracting State.
2. The States party to such agreements shall practise no discrimination between Contracting States party to this Convention or against each other in relation to third countries when opening negotiations for, concluding, applying and interpreting bilateral or multilateral investment promotion and protection agreements.

By "non-discrimination", the Parties understand that, in negotiating such agreements, either side may be entitled to provisions in agreements negotiated between the ACP States or Member States concerned and another State, provided that in every case reciprocity is accorded.

3. The Contracting States shall have the right to request a modification or adaptation of the non-discriminatory treatment referred to in paragraph 2 when international obligations or changed *de facto* circumstances so necessitate.
4. The application of the principles referred to in paragraphs 2 and 3 does not purport to and cannot in practice, infringe the sovereignty of any Contracting State party to the Convention.

5. The relation between the date of entry into force of any agreement negotiated, provisions for the settlement of disputes and the date of the investments concerned will be set out in the said agreement, account being taken of paragraphs 1 to 4. The Contracting Parties confirm that retroactivity shall not apply as a general principle unless Contracting States stipulate otherwise.

#### ARTICLE 262

In order further to encourage European investment in development projects of special importance to, and promoted by, the ACP States, the Community and the Member States, on the one hand, and the ACP States, on the other, may also conclude agreements relating to specific projects of mutual interest where the Community and European enterprises contribute towards their financing.

#### SECTION 3

#### Investment Financing

#### ARTICLE 263

1. With a view to assisting the implementation of directly productive investment, both public and private, contributing to the economic and industrial development of the ACP States, the Community shall provide financial assistance, subject to the provisions laid down in Chapter 2 of this Title, in the form of risk capital and/or loans from the Bank's own resources. This financial assistance may be used, *inter alia*, for:

- (a) increasing, directly or indirectly, the own resources of ACP public, semi-public or private enterprises and providing financing in the form of loans for investment in such enterprises;
- (b) supporting productive investment projects and programmes identified and promoted by the joint bodies set up by the Community and the ACP States in accordance with the Convention;
- (c) financing schemes in favour of small and medium-sized enterprises.

2. In order to achieve the objectives set out in paragraph 1, a significant part of risk capital shall be devoted to supporting private sector investment.

#### ARTICLE 264

In addition to the resources provided for above, the ACP State or States may use the resources of the national or regional programme, *inter alia*, for:

- (a) financing schemes in favour of small and medium-sized enterprises;
- (b) encouraging the setting-up or the strengthening of national or regional financial institutions in order to enable them effectively to support private sector needs;
- (c) appropriate and effective support for export promotion;
- (d) providing general or specific technical co-operation to cater for private sector needs.

#### ARTICLE 265

The financing of directly productive projects may concern new investments as well as the rehabilitation or utilization of existing capacity.

#### ARTICLE 266

Where the financing is undertaken through an on-lending body, it shall be the responsibility of that body to select and appraise individual projects and to administer the funds placed at its disposal in the conditions provided for in this Convention and by mutual agreement between the parties.



## SECTION 4

### Investment Support

#### ARTICLE 267

In order effectively to achieve the various objectives of the Convention in relation to promoting private investment and to realize its multiplying effect, the Bank and/or the Commission shall participate by way of:

- (a) financial assistance, including equity participations;
- (b) technical assistance;
- (c) advisory services;
- (d) information and co-ordination services.

#### ARTICLE 268

1. The Bank shall utilize risk capital resources to supplement the activities aimed at promoting and providing support for the private sectors in the ACP States. To this end, risk capital may be used to:

- (a) provide direct loans for the investment in ACP States' public, semi-public and private enterprises, including SMEs;
- (b) increase the own resources, or resources treated as such, of public, semi-public or private enterprises through direct holdings in the name of the Community;
- (c) participate, with the agreement of the ACP State, in the capital of financial institutions promoting private investment in ACP States;
- (d) provide finance to ACP States' financial institutions or, with the agreement of the ACP State concerned, ACP and/or Community promoters wishing to invest, in addition to their own contribution, in ACP-EEC joint ventures in order to reinforce the own resources of ACP enterprises;
- (e) with the agreement of the ACP State or States concerned, assist ACP or Community financial intermediaries which contribute towards the financing of SMEs in the ACP States in:
  - (i) acquiring participations in the capital of ACP SMEs;
  - (ii) funding the acquisition of participations in ACP SMEs by ACP private investors and/or Community promoters in the conditions laid down in (d);
  - (iii) on-lending for financial investment in ACP States' SMEs;
- (f) assist with the restructuring or recapitalization of financial institutions of the ACP States;
- (g) finance specific studies, research or investment for the preparation and identification of projects; provide assistance, including training, management and investment-related services, to enterprises in the context of the Bank's operations during the pre-investment period or for rehabilitation purposes and, where appropriate, contribute to the start-up costs, including investment guarantee and insurance premiums, necessary to ensure that the investment decision is taken.

2. Where appropriate, loan financing of investment, both directly or indirectly, as well as of sectoral support programmes, shall be provided from the Bank's own resources.

#### ARTICLE 269

The ACP States may, to encourage the promotion and development of their respective private sectors, use the resources of the indicative programme for:

- (a) supporting the development of enterprises, by providing training, assistance in financial management and project preparation, specialized business start-up services and development and management services, and by encouraging technology transfers;
- (b) providing appropriate and effective support for investment promotion, including the provision of assistance to promoters;

- (c) supporting the setting-up or the strengthening of national or regional financial institutions in the ACP States to finance export operations;
- (d) financing imports of intermediate materials needed for the export industries of a requesting ACP State;
- (e) credit lines in favour of SMEs;
- (f) providing appropriate and effective support for export promotion;
- (g) supporting the improvement of the involvement climate including the legal and fiscal framework for business, and the development of services in support of the enterprise sector so as to provide enterprises with advisory services in the legal, technical and managerial fields;
- (h) providing technical co-operation to reinforce the activities of bodies in the ACP States working for the development of small and medium-sized enterprises;
- (i) implementing appropriate programmes for vocational training and developing the capacity of individual entrepreneurs, particularly in the small-scale and informal sectors;
- (j) providing assistance for the mobilization of domestic savings, development of financial intermediation and of new financial instruments, rationalization of enterprise promotion policies and encouragement of foreign investment;
- (k) financing ventures undertaken by co-operatives or local communities in ACP States and the creation or strengthening of SME guarantee funds.

#### ARTICLE 270

In order to mobilize external investment resources, both private and public, particular efforts should be made in exploiting the possibilities of co-financing or attracting parallel-financing for the various projects or programmes.

#### ARTICLE 271

In assisting the ACP efforts to invest in PMDT, particular attention shall be paid to supporting optimal use of existing capacity of the ACP State concerned and the needs for rehabilitation.

#### ARTICLE 272

In order to support the promotion of investment in the ACP States and with due regard to the complementarity of their roles, the Commission and the Bank will closely co-ordinate their activities in this field.

The Commission and the Bank shall, with the assistance of Member States and ACP States, ensure effective co-ordination at the operational level among all parties interested in supporting investment in ACP States.

With a view to keeping those parties informed on investment prospects, the Commission shall produce reports and studies notably on:

- investment flows between the Community and the ACP States, economic, legal or institutional obstacles hampering those investments, measures which will facilitate private capital movements, joint financing, access of ACP States to international financial markets and the effectiveness of domestic financial markets;
- activities undertaken by national and international systems of investment guarantees;
- investment promotion and protection agreements between Member States and ACP States.

The Commission shall submit to the ACP-EEC Development Finance Co-operation Committee the results of these studies. It shall also, in collaboration with the Bank, submit a report on the results of co-ordination in the field of investment and private sector support.

## SECTION 5

### Current Payments and Capital Movements

#### ARTICLE 273

1. With regard to capital movements linked with investments and to current payments, the Contracting Parties shall refrain from taking action in the field of foreign exchange transactions which would be incompatible with their obligations under this Convention resulting from the provisions relating to trade in goods and services, establishment and industrial co-operation. These obligations shall not, however, prevent the Contracting Parties from adopting the necessary protective measures should they be justified by reasons relating to serious economic difficulties or severe balance-of-payments problems.

2. In respect of foreign exchange transactions linked with investments and current payments, the ACP States, on the one hand, and the Member States, on the other, shall avoid, as far as possible, taking discriminatory measures *vis-à-vis* each other or according more favourable treatment to third States, taking full account of the evolving nature of the international monetary system, the existence of specific monetary arrangements and balance-of-payments problems.

To the extent that such measures or treatment are unavoidable, they shall be maintained or introduced in accordance with accepted international monetary rules and every effort shall be made to minimize any adverse effects on the parties affected.

## SECTION 6

### Qualification and Treatment of Business Entities

#### ARTICLE 274

1. As regards arrangements that may be applied in matters of establishment and provision of services, the ACP States, on the one hand, and the Member States, on the other, shall treat nationals and companies or firms of the ACP States and nationals and companies or firms of the Member States respectively on a non-discriminatory basis. However, if, for a given activity, an ACP State or a Member State is unable to provide such treatment, the ACP State or the Member State, as the case may be, shall not be bound to accord such treatment for that activity to the nationals and companies or firms of the State concerned.

2. For the purpose of this Convention, "companies or firms of a Member State or of an ACP State" mean companies or firms constituted under civil or commercial law, including corporations, whether public or otherwise, co-operative societies and other legal persons and partnerships governed by public or private law, save for those which are non-profit-making, formed in accordance with the law of a Member State or an ACP State and whose statutory office, central administration or principal place of business is in a Member State or ACP State.

However, a company or firm having only its statutory office in a Member State or an ACP State must be engaged in an activity which has an effective and continuous link with the economy of that Member State or the ACP State.

## CHAPTER 4

### Technical Co-operation

#### ARTICLE 275

Technical co-operation shall assist the ACP States in the development of national and regional manpower resources, the sustained development of their institutions, and contribute to the achievement of project and programme goals. To this end:

- (a) support through the provision of technical assistance shall be made available only at the request of the ACP State or States concerned;

- (b) technical co-operation shall be cost-effective and relevant to the need for which it is intended, and also favour the transfer of know-how and increase national and regional capabilities;
- (c) efforts shall be made to encourage the participation in Fund-financed contracts of ACP experts, consultancy firms, educational and research institutions and also to make greater use of secondment of ACP national cadres as consultants to an institution in their own country, or a neighbouring country, or to a regional organization;
- (d) ACP States may, either on a national or regional basis, use the instruments and resources of financial and technical co-operation to develop knowledge of national and regional manpower constraints and potential and to establish a register of ACP experts, consultants and consultancy firms suitable for employment on Fund projects and programmes, as well as to identify ways of employing qualified national and regional personnel on Fund projects;
- (e) intra-ACP technical assistance shall be supported through the instruments of development finance co-operation in order to enable the exchange between the ACP States of technical assistance, management and professional expertise;
- (f) action programmes for long-term institution building and staff development shall be an integral part of project and programme planning, account being taken of the necessary financial requirements;
- (g) with a view to reversing the brain drain from the ACP States, the Community shall assist ACP States who so request to facilitate the return of qualified ACP nationals resident in developed countries through appropriate re-installation incentives;
- (h) project and programme appraisal shall take due account of national human resources constraints and ensure a strategy favourable to the promotion of such resources;
- (i) technical assistance personnel shall be qualified for the specific tasks as defined in the request from the ACP State or States and shall be integrated within the beneficiary ACP institution;
- (j) the effective training of national personnel shall be part of the assignment of technical assistance personnel so as to phase out technical assistance with a view to staffing projects entirely and on a permanent basis with nationals of the ACP States;
- (k) the co-operation shall include arrangements to enhance the capacity of the ACP States to build up their own expertise and improve the technical skills of their own consultants, consulting companies or firms;
- (l) special attention should be given to the development of the ACP States' capacities in project planning, implementation and evaluation.

#### ARTICLE 276

1. Technical co-operation may be either of a specific or a general nature.
2. Technical co-operation of a general nature shall include *inter alia*:
  - (a) development studies, studies of prospects and resources for economic development and diversification in the ACP States, and of problems of interest to the ACP States as a whole or to any group of those States;
  - (b) studies to find practical solutions to the indebtedness, debt-servicing and balance-of-payments problems of ACP States;
  - (c) sectoral or product studies;
  - (d) the provision of experts, advisers, technicians and instructors for specific assignments and for limited periods;
  - (e) the supply of instructional, experimentation, research and demonstration equipment;
  - (f) general information and documentation including statistics, to promote the development of the ACP States and the achievement of the aims of co-operation;
  - (g) exchanges of executive and specialized staff, students, research workers, motivators and heads of social or cultural groups or associations;
  - (h) the granting of study or training awards, particularly to persons already in employment and requiring further training;

- (i) the organization of seminars or sessions for training, further training and information;
- (j) the setting-up or strengthening of information and documentation instruments, particularly for exchanges of know-how, methods and experience between ACP States and between them and the Community;
- (k) co-operation between or twinning of ACP States' institutions, particularly universities and other ACP and EEC training and research establishments;
- (l) support for significant cultural events.

3. Technical co-operation related to specific operations shall include *inter alia*:

- (a) technical, economic, statistical, financial and commercial studies, as well as research and surveys required to prepare projects or programmes, including those on structural adjustment and investment;
- (b) preparation of projects and programmes;
- (c) execution and supervision of projects and programmes;
- (d) implementation of temporary measures required for the establishment, launching, operation and maintenance of a specific project;
- (e) monitoring and evaluation of operations;
- (f) integrated training, information and research programmes.

#### ARTICLE 277

The Community shall take practical measures to increase and improve the information placed at the disposal of ACP States concerning the availability and qualifications of relevant consultants.

#### ARTICLE 278

1. The choice of whether to use the services of consultancy companies or firms, or of individual experts shall take account of the nature of the problems and the scale and complexity of the technical means and management resources required, as well as the comparative cost of the two solutions. In addition, measures shall be taken to ensure that recruiters can distinguish clearly between different levels of competence and experience on an international level. The choice of contractors and their staff shall refer to the following criteria:

- (a) professional skills (technical and training ability) and human qualities;
- (b) respect for the cultural values and the political and administrative circumstances of the ACP State or States concerned;
- (c) knowledge of the language necessary for the execution of the contract;
- (d) practical experience of problems of the type to be dealt with;
- (e) cost.

2. The recruitment of technical co-operation staff, the determination of their aims and functions and duration of their missions, their remuneration and the ways in which they contribute to the development of the ACP States to which they are assigned, must conform to the principles for technical co-operation policy laid down in Article 275. The procedures to be applied in this context must ensure objectivity in terms of the choice and quality of the services provided. The following principles shall also apply:

- (a) recruitment shall be carried out by the national institutions that will use the technical assistance, in accordance with the relevant provisions on competition and preference;
- (b) efforts shall be made to facilitate direct contact between the candidate and the future user of the technical assistance;
- (c) the use of alternative technical assistance delivery systems should be encouraged through the use of volunteers, non-governmental organizations, retired executives and twinning arrangements;
- (d) when considering a request for technical assistance, the ACP States and the Commission delegation shall compare the costs and benefits of different ways of transferring technology and increasing capabilities;

- (e) the tender dossier shall provide that each tenderer must indicate in his tender what methods he intends to adopt and what staff he intends to employ and the strategy for promoting ACP national and/or regional local capabilities once the contract is put into effect;
- (f) the Community shall provide the recipient ACP States with detailed information on the full cost of technical assistance in order to enable ACP States to negotiate the contracts in a cost-effective manner.

#### ARTICLE 279

In order to enhance the ACP States' capacity to build up their technical skills and improve the know-how of their consultants, the Community and the ACP States shall encourage co-operation partnership arrangements between consultancy firms, consulting engineers, experts and institutions of the Member States of the Community and those of the ACP States. To this end, the Community and the ACP States shall make every effort to:

- (a) encourage by means of temporary associations, subcontracting or the use of experts who are nationals of the ACP States in teams employed by consultancy firms, consulting engineers or institutions in the Member States;
- (b) inform tenderers in the tender dossier of the selection criteria and preferences provided for in the Convention, particularly those relating to the encouragement of the use of ACP human resources.

#### ARTICLE 280

1. Subject to the provisions of this Chapter, the award of service contracts and the rules of competition and preference therefore shall be in accordance with Section 5 of Chapter 5.
2. Technical co-operation shall provide support for the educational and training operations, multiannual training programmes, including awards, as referred to in Chapter 1 of Title XI of Part Two.

### CHAPTER 5

#### Implementation Procedures

##### SECTION 1

#### Programming

##### ARTICLE 281

1. At the beginning of the period covered by the Convention and before the indicative programme is drawn up:
  - (a) each ACP State shall obtain from the Community a clear indication of the total programmable financial allocation from which it may benefit during that period as well as any other relevant information;
  - (b) each ACP State eligible for the specific resources earmarked for adjustment support in accordance with Article 246 shall be notified of the estimated initial instalment that it may receive.
2. Upon receipt of the information referred to above, each ACP State shall draw up and submit to the Community a draft indicative programme on the basis of and consistent with its development objectives and priorities. The draft indicative programme shall contain:
  - (a) the priority development objectives of the ACP State concerned at national and regional level;
  - (b) the focal sector or sectors for which support is considered the most appropriate;
  - (c) the most appropriate measures and operations for attaining the objectives in the focal sector or sectors or, where such operations are not sufficiently well-defined, the broad outlines of the programmes to support the State's adopted policies in the focal sectors;

- (d) if possible, specific, clearly identified national projects and programmes, and especially those which constitute a follow-up to existing projects and programmes;
- (e) where appropriate, a limited part of the programmable resources not allocated to the focal sector which the ACP State proposes to use for structural adjustment support;
- (f) any proposals for regional projects and programmes.

#### ARTICLE 282

1. The draft indicative programme shall be the subject of an exchange of views between the ACP State concerned and the Community, due regard being given to the domestic needs of the ACP States and their sovereign rights to determine their development strategies, priorities and models as well as their overall macro-economic and sectoral policies.

2. The indicative programme shall be adopted by agreement between the Community and the ACP State concerned on the basis of the draft indicative programme proposed by that State and shall, when adopted, be binding on both the Community and the State concerned. It shall specify *inter alia*:

- (a) the focal sector or sectors in which the Community's support will be given and the resources to be deployed for that purpose;
- (b) the measures and actions necessary to achieve the objectives of the sectors agreed upon;
- (c) the timetable of commitments and measures to be taken;
- (d) the reserve set aside for insurance against possible claims, and to cover cost increases and contingencies;
- (e) the projects and programmes outside the focal sector or sectors as well as the proposals for regional projects and programmes and, where appropriate, the part for structural adjustment support.

3. The indicative programme shall be sufficiently flexible to ensure that operations are kept constantly in line with objectives and to take account of any changes occurring in the economic situation, priorities and objectives of the ACP States. It may be revised at the request of the ACP State concerned.

#### ARTICLE 283

The Community and the ACP State shall take all necessary measures to ensure that the indicative programme is adopted in the shortest possible time, preferably before the entry into force of this Convention.

#### ARTICLE 284

1. The indicative programme shall establish the overall amounts of programmable assistance which may be placed at the disposal of each ACP State. Save for funds reserved for emergency assistance, interest rate subsidies and regional co-operation, programmable assistance shall comprise grants, and a part of risk capital.

2. Any balance remaining from the Fund that has not been committed or disbursed by the end of the last year of application of the Financial Protocol shall be utilized until it has been exhausted, in accordance with the same conditions as those laid down in this Convention.

3. A comparative account of commitments and payments shall be drawn up each year by the National Authorizing Officer and the Commission Delegate, who shall take the necessary steps to ensure that the timetable of commitments agreed at the time of programming is adhered to and determine the causes of delays recorded in their execution so that the necessary remedial measures can be proposed.

## SECTION 2

### **Project Identification, Preparation and Appraisal**

#### ARTICLE 285

The identification and preparation of projects and programmes shall be the responsibility of the ACP State concerned or any other eligible beneficiary.

#### ARTICLE 286

Project or programme dossiers prepared and submitted for financing must contain all information necessary for the appraisal of the projects or programmes or, where such projects and programmes have not been completely defined, provide the broad outlines necessary for their appraisal. Such dossiers shall be officially transmitted to the Delegate by the ACP States or the other beneficiaries in accordance with this Convention. In the case of beneficiaries other than ACP States, the express agreement of the State concerned shall be required.

#### ARTICLE 287

1. The appraisal of projects and programmes shall be undertaken jointly by the ACP State or States and the Community. In order to expedite the procedure, the Commission shall give the necessary powers to its Delegate to undertake this joint appraisal.
2. Project and programme appraisal shall take into account the specific characteristics and constraints of each ACP State as well as the following factors:
  - (a) effectiveness and viability of the operations requested and the returns thereon, if possible on the basis of a cost-benefit analysis, possible variants being examined;
  - (b) cultural, social, gender and environmental aspects, both direct and indirect, and impact on the populations;
  - (c) availability of local manpower and other resources necessary to implement, operate and maintain the projects and programmes;
  - (d) training and institutional development necessary to achieve project or programme goals;
  - (e) burden of recurrent cost on the recipient;
  - (f) national commitments and efforts;
  - (g) experience gained from operations of the same kind;
  - (h) results of studies already undertaken on similar projects or programmes in order to expedite implementation and minimize costs.
3. The specific difficulties and constraints of the least-developed ACP States which affect the effectiveness, viability and economic return of projects and programmes shall be taken into account when the said projects and programmes are appraised.
4. The general guidelines and criteria for appraisal of projects and programmes shall be developed during the Convention by the ACP-EEC Development Finance Co-operation Committee in the light of evaluation work, taking into account the necessary flexibility in adapting these criteria to the specific situation of each ACP State.

## SECTION 3

### **Financing Proposal and Decision**

#### ARTICLE 288

1. The conclusions of the appraisal shall be summarized by the Delegate in a financing proposal in close collaboration with the National Authorizing Officer.
2. The financing proposal shall contain an advance timetable for the technical and financial implementation of the project or programme, and shall deal with the duration of the different phases of implementation.



3. The financing proposal shall:
  - (a) take into account the comments of the ACP State or States concerned;
  - (b) be forwarded by the Delegate simultaneously to the ACP State or States concerned and the Commission.
4. The Commission shall finalize the financing proposal and forward it, with or without amendment, to the Community's decision-making body. The ACP State or States concerned shall be given an opportunity to comment on any amendment or substance which the Commission intends to make to the document; these comments shall be reflected in the amended financing proposal.

#### ARTICLE 289

1. Subject to Article 288(4), the Community's decision-making body shall communicate its decision within 120 days from the date of communication by the Delegate referred to in Article 288(3)(b).
2. Where the financing proposal is not adopted by the Community, the ACP State or States concerned shall be informed immediately of the reasons for that decision. In such a case, the representatives of the ACP State or States concerned may, within 60 days thereafter, request either:
  - (a) that the matter be referred to the ACP-EEC Development Finance Co-operation Committee set up under the Convention, or
  - (b) that they be given a hearing by the Community's decision-making body.
3. Following such a hearing, a definitive decision to adopt or reject the financing proposal shall be taken by the relevant Community body, to which the ACP State or States concerned may forward, before the decision is taken, any facts which may appear necessary to supplement the information available to it.

#### ARTICLE 290

1. With a view to expediting procedures and in derogation from the provisions set out in Articles 288 and 289, financing decisions may deal with *multiannual programmes* where the financing concerns:
  - (a) training;
  - (b) micro-projects;
  - (c) trade promotion;
  - (d) sets of operations of a limited scale in a specific sector;
  - (e) technical co-operation.
2. In these cases the ACP State concerned may submit to the Delegate a multiannual programme setting out the broad outlines, the types of actions envisaged and the financial commitment proposed.

The financing decision on each multiannual programme shall be taken by the Chief Authorizing Officer. The letter from the Chief Authorizing Officer to the National Authorizing Officer notifying such decision shall constitute the financing agreement as per Article 291.

Within the framework of multiannual programmes thus adopted, the National Authorizing Officer shall implement each individual action in accordance with the relevant provisions of the Convention and the terms of the financing agreement referred to above.

At the end of each year, the National Authorizing Officer, in consultation with the Delegate, shall forward a report to the Commission on the implementation of the programmes.

## SECTION 4

### Financing Agreement and Cost Over-Runs

#### ARTICLE 291

1. For any project or programme financed by a grant from the Fund, a financing agreement shall be drawn up between the Commission and the ACP State or States concerned within 60 days of the decision of the Community's decision-making body.
2. The agreement shall specify in particular the details of the Fund's financial commitment and the financing arrangements and terms, the general and specific provisions relating to the project or programme concerned and shall also incorporate the advance timetable for the technical implementation of the project or programme contained in the financing proposal.
3. Financing agreements for all projects and programmes shall make adequate provision for appropriations to cover cost increases and contingencies.
4. Once the financing agreement has been signed, disbursements shall be made in accordance with the financing plan laid down therein.
5. Any unexpended balance left upon closure of the accounts of projects and programmes shall accrue to the ACP State concerned and shall be so specified in the Fund's books. It may be used in the manner laid down in this Convention for the financing of projects and programmes.

#### Cost over-runs

#### ARTICLE 292

1. Once it appears that cost over-runs beyond the limit set in the financing agreement are likely to be incurred, the National Authorizing Officer shall, through the Delegate, notify the Chief Authorizing Officer accordingly, as well as of the measures which the National Authorizing Officer intends to take in order to cover such cost over-runs over the allocated appropriations, either by reducing the scale of the project or programme or by calling on national or other non-Community resources.
2. If it is decided by agreement with the Community not to scale down the project or programme or if it is not possible to cover them by other resources, then such over-runs may be:
  - (a) covered by any unexpended balance left upon closure of projects and programmes from indicative programmes which has not been reallocated up to 20% of the financial commitment for the project or programme concerned, or
  - (b) financed by the indicative programme.

#### Retroactive financing

#### ARTICLE 293

1. In order to ensure early project start-up, avoid gaps between sequential projects and prevent delays, the ACP States, in agreement with the Commission, may, on completion of project appraisal and before the financing decision is taken:
  - (i) issue invitations to tender for all types of contracts, with a suspension clause;
  - (ii) pre-finance, for a limited amount, activities linked to preliminary and seasonal work, orders for equipment with long delivery lead times as well as some ongoing operations. Such expenditures must satisfy the procedures provided for in the Convention.
2. These provisions do not prejudice the powers of the Community's decision-making body.
3. Expenditure made by the ACP State in pursuance of this Article shall be retroactively financed under the project or programme, once the financing agreement is signed.

## SECTION 5

### Competition and Preferences

#### Eligibility

##### ARTICLE 294

1. Save where a derogation is granted in accordance with Article 296:
  - (a) participation in invitations to tender and the award of the contracts financed by the Fund shall be open on equal terms to:
    - (i) natural persons, companies or firms or public or semi-public agencies of the ACP and Community States;
    - (ii) co-operative societies and other legal persons governed by public or private law, save for those which are non-profit-making, of the Community and/or the ACP States;
    - (iii) joint ventures or groupings of ACP and/or Community companies or firms.
  - (b) supplies must originate in the Community and/or the ACP States, in accordance with the provisions of Annex LIV.
2. To be eligible to participate in invitations to tender and the award of contracts, tenderers shall provide evidence satisfactory to the ACP States of their eligibility under Articles 274 and paragraph 1, and adequacy of resources to carry out the contract effectively.

#### Participation on equal terms

##### ARTICLE 295

The ACP States and the Commission shall take the necessary measures to ensure the widest possible participation on equal terms in invitations to tender for works, supplies and service contracts, including, as appropriate, measures to:

- (a) ensure publication of invitations to tender in the Official Journal of the European Communities, the official journals of all the ACP States and any other appropriate information media.
- (b) eliminate discriminatory practices or technical specifications which might stand in the way of widespread participation on equal terms;
- (c) encourage co-operation between the companies and firms of the Member States and of the ACP States;
- (d) ensure that all the selection criteria are specified in the tender dossier, and
- (e) ensure that the tender selected conforms to the requirements of the tender dossier and meets the selection criteria stated therein.

#### Derogation

##### ARTICLE 296

1. In order to ensure the optimum cost-effectiveness of the system, natural or legal persons from non-ACP developing countries may be authorized to participate in contracts financed by the Community at the request of the ACP States concerned. The ACP States concerned shall, on each occasion, provide the Delegate with the information needed for the Community to decide on such derogations, particular attention being given to:
  - (a) the geographical location of the ACP State concerned;
  - (b) the competitiveness of contractors, suppliers and consultants from the Community and the ACP states;
  - (c) the need to avoid excessive increases in the cost of performance of the contract;
  - (d) transport difficulties or delays due to delivery times or other similar problems;
  - (e) technology that is the most appropriate and best suited to local conditions.

2. Participation by third countries in contracts financed by the Community may also be authorized:
  - (a) where the Community participates in the financing of regional or inter-regional schemes involving such countries;
  - (b) in the case of co-financing projects and programmes;
  - (c) in the case of emergency assistance.
3. In exceptional cases and in agreement with the Commission, consultancy firms which or experts who are nationals of third countries may participate in service contracts.

### **Competition**

#### **ARTICLE 297**

Save as provided for in Article 298, works and supply contracts financed from the Fund shall be concluded following an open invitation to tender and service contracts shall be concluded following a restricted invitation to tender.

#### **ARTICLE 298**

1. The ACP State or States may, in accordance with the provisions of paragraphs 2, 3 and 4 and of Article 299 and in agreement with the Commission:
  - (a) place contracts after restricted invitations to tender following, where applicable, calls for prequalification;
  - (b) conclude contracts by direct agreement;
  - (c) perform contracts through public or semi-public departments of the ACP States.
2. Restricted invitation to tender may be used:
  - (a) where the urgency of the situation is established or where the nature, or certain particular characteristics of the contracts so warrant;
  - (b) for projects or programmes of a highly specialized nature;
  - (c) for large-scale contracts after prequalification.
3. Direct-agreement contracts may be awarded in the following cases:
  - (a) Small-scale operations or in urgent situations or short-term technical co-operation schemes;
  - (b) emergency assistance;
  - (c) operations assigned to individual experts;
  - (d) operations which are complementary to or necessary for the completion of others already in hand;
  - (e) where the execution of the contract is exclusively reserved for holders of patents or licences to use, process or import the articles concerned;
  - (f) following an unsuccessful invitation to tender.
4. The following procedure shall apply for restricted invitation to tender and direct-agreement contracts:
  - (a) in the case of works and supply contracts, a short-list of prospective tenderers shall be drawn up by the ACP State or States concerned in agreement with the Delegate following, where applicable, a call for prequalification of tenders;
  - (b) in the case of service contracts, the short-list of prospective tenderers shall be drawn up by the ACP States, in agreement with the Commission on the basis of the proposals of the ACP State or States concerned and the proposals submitted by the Commission;

- (c) in direct-agreement contracts, the ACP State shall enter freely into such discussions as it may consider appropriate with the prospective tenderers whom it has short-listed in accordance with the paragraphs above and award the contract to the tenderers whom it has selected.

### **Direct labour**

#### **ARTICLE 299**

1. Contracts shall be performed by direct labour through public or semi-public agencies or departments of the State or States concerned, where the ACP State concerned has the qualified management staff available in its national departments, in case of emergency assistance, service contracts and all other operations the estimated cost of which is less than ECU 5 million.

2. The Community shall contribute to the costs of the department involved by providing the equipment and/or materials that it lacks and/or resources to allow it to acquire additional staff required in the form of experts from within the ACP States concerned or other ACP States. The participation of the Community shall cover only costs incurred by supplementary measures and temporary expenditure relating to execution strictly confined to the requirements of the project in question.

### **Emergency assistance contracts**

#### **ARTICLE 300**

Contracts under emergency assistance shall be undertaken in such a way as to reflect the urgency of the situation. To this end, for all operations relating to emergency assistance, the ACP State may, in agreement with the Delegate, authorize:

- (a) the conclusion of contracts by direct agreement;
- (b) the performance of contracts by direct labour;
- (c) implementation through specialized agencies;
- (d) direct implementation by the Commission.

### **Accelerated procedure**

#### **ARTICLE 301**

1. With the aim of ensuring the rapid and effective implementation of projects and programmes, an accelerated tendering procedure shall be used except as otherwise indicated by the ACP State concerned, or by the Commission by way of a proposal for the agreement of the ACP State concerned. The accelerated procedure for issuing invitations to tender shall involve shorter time-limits for tendering and the call for tender is confined to the ACP State concerned and the neighbouring ACP States, in accordance with the rules in force in the ACP State concerned. The accelerated procedure shall apply in the following cases:

- (a) works contracts: the estimated cost of which is less than ECU 5 million;
- (b) emergency assistance: irrespective of the value of the contract.

2. By way of derogation, the National Authorizing Officer, in agreement with the Delegate, may procure supplies and/or services for a limited amount where they are available in the ACP States concerned or in neighbouring ACP States.

#### **ARTICLE 302**

In order to speed up the procedure, the ACP States may request the Commission to negotiate, draw up and conclude service contracts on their behalf directly or through its relevant agency.

## Preference

### ARTICLE 303

Measures shall be taken to encourage the widest participation of the natural and legal persons of the ACP States in the performance of contracts financed by the Fund in order to permit the optimization of the physical and human resources of those States. To this end:

- (a) for works contracts of a value of less than ECU 5 million, tenderers of the ACP States, provided that at least one quarter of the capital stock and management staff originates from one or more ACP States, shall be accorded a 10% price preference where tenders of an equivalent economic, technical and administrative quality are compared;
- (b) for supply contracts, irrespective of the value of the supplies, tenderers of the ACP States who offer supplies of at least 50% in contract value of ACP origin, shall be accorded a 15% price preference where tenders of equivalent economic, technical and administrative quality are compared;
- (c) in respect of service contracts, given the required competence, preference shall be given to experts, institutions or consultancy companies or firms from ACP States where tenders of equivalent economic and technical quality are compared;
- (d) where subcontracting is envisaged, preference shall be given by the successful tenderer to natural persons, companies and firms of ACP States capable of performing the contract required on similar terms;
- (e) the ACP State may, in the invitation to tender, propose to the prospective tenderers the assistance of other ACP States' companies or firms or national experts or consultants selected by mutual agreement. This co-operation may take the form either of a joint venture, or of a subcontract or of on-the-job training of trainees.

## Selection

### ARTICLE 304

1. The ACP State shall award the contract to the tenderer:
  - (a) whose tender is found to be responsive to the tender dossier;
  - (b) for a works or supply contract, who has offered the most advantageous tender as assessed *inter alia* on the basis of:
    - (i) the price, the operating and maintenance costs;
    - (ii) the qualifications of, and the guarantees offered by the tenderers, as well as the technical qualities of the tender, including the offer of an after-sales service in the ACP State;
    - (iii) the nature of, the conditions and the time limit for executing the contracts, and the adaptation to local conditions;
  - (c) for a service contract, who offers the most advantageous tender taking into account, *inter alia* the price, the technical value of the tender, the organization and the methodology proposed for the provision of the services, as well as the competence, independence and availability of the personnel proposed.
2. Where two tenders are acknowledged to be equivalent on the basis of the criteria stated above, preference shall be given:
  - (a) to the tenderer of an ACP State, or
  - (b) if no such tender is forthcoming, to the tenderer who:
    - (i) permits the best possible use of the physical and human resources of the ACP States,
    - (ii) offers the greatest subcontracting possibilities to ACP companies, firms or natural persons, or
    - (iii) is a consortium of natural persons, companies and firms from ACP States and the Community.

## **General regulations**

### **ARTICLE 305**

The award of contracts financed from the resources of the Fund shall be governed by this Convention and the general regulations which shall be adopted by decision of the Council of Ministers at the first meeting following the signing of this Convention, upon the recommendation of the ACP-EEC Development Finance Co-operation Committee referred to in Article 325 of this Convention.

## **General conditions**

### **ARTICLE 306**

Performance of works, supply and service contracts financed from the resources of the Fund shall be governed by:

- (a) the general conditions applicable to contracts financed by the Fund which shall be adopted by decision of the Council of Ministers, at the first meeting following the signing of this Convention, upon the recommendation of the ACP-EEC Development Finance Co-operation Committee referred to in Article 325 of this Convention, or
- (b) in the case of co-financed projects and programmes, or where a derogation to third parties has been granted, or in accelerated procedures or in other appropriate cases, such other general conditions as may be agreed by the ACP State concerned and the Community, i.e.:
  - (i) the general conditions prescribed by the national legislation of the ACP State concerned or its established practices regarding international contracts, or
  - (ii) any other international general conditions for contracts.

## **Settlement of disputes**

### **ARTICLE 307**

Any dispute arising between the authorities of an ACP State and a contractor, supplier or provider of services during the performance of a contract financed by the Fund shall:

- (a) in the case of a national contract be settled in accordance with the national legislation of the ACP State concerned, and
- (b) in the case of a transnational contract be settled either:
  - (i) if the parties to the contract so agree, in accordance with the national legislation of the ACP State concerned or its established international practices, or
  - (ii) by arbitration in accordance with the procedural rules which will be adopted by decision of the Council of Ministers, at the first meeting following the signing of this Convention, upon the recommendation of the ACP-EEC Development Finance Co-operation Committee referred to in Article 325 of this Convention.

## **SECTION 6**

### **Tax and Customs Arrangements**

#### **ARTICLE 308**

The ACP States shall apply to contracts financed by the Community tax and customs arrangements no less favourable than those applied by them to the most-favoured States or international development organizations with which they have relations. For the purpose of determining the most-favoured-nation treatment, account shall not be taken of arrangements applied by the ACP State concerned to other ACP States, or to other developing countries.

## ARTICLE 309

Subject to Article 308 above, the following shall apply to contracts financed by the Community:

- (a) the contract shall not be subject in the beneficiary ACP State to stamp or registration duties or to fiscal charges having equivalent effect, whether such charges already exist or are to be instituted in the future; however, such contracts shall be registered in accordance with the laws in force in the ACP State and a fee corresponding to the service rendered may be charged for it;
- (b) profits and/or income arising from the performance of contracts shall be taxable according to the internal fiscal arrangements of the ACP State concerned, provided that the natural or legal persons who realize such profit and/or income have a permanent place of business in that State, or that the performance of the contract takes longer than six months;
- (c) enterprises which must import professional equipment in order to carry out works contracts shall, if they so request, benefit from the system of temporary admission as laid down by the national legislation of the beneficiary ACP State in respect of the said equipment;
- (d) professional equipment necessary for carrying out tasks defined in a service contract shall be temporarily admitted into the beneficiary ACP State or States in accordance with its national legislation free of fiscal, import and customs duties and of other charges having equivalent effect where these duties and charges do not constitute remuneration for services rendered;
- (e) imports under supply contracts shall be admitted into the beneficiary ACP State without customs duties, import duties, taxes or fiscal charges having equivalent effect. The contract for supplies originating in the ACP State concerned shall be concluded on the basis of the ex-works price of the supplies, to which may be added such internal fiscal charges as may be applicable to those supplies in the ACP State;
- (f) fuels, lubricants and hydrocarbon binders and, in general, all materials used in the performance of works contracts shall be deemed to have been purchased on the local market and shall be subject to fiscal rules applicable under the national legislation in force in the beneficiary ACP State;
- (g) personal and household effects imported for use by natural persons, other than those recruited locally, engaged in carrying out tasks defined in a service contract and members of their families, shall be exempt from customs or import duties, taxes and other fiscal charges having equivalent effect, within the limit of the national legislation in force in the beneficiary ACP State.

## ARTICLE 310

Any matter not covered by the provisions of Articles 308 and 309 shall remain subject to the national legislation of the ACP State concerned.

## CHAPTER 6

### Management and Executing Agents

#### SECTION 1

#### Chief Authorizing Officer

#### ARTICLE 311

1. The Commission shall appoint the Chief Authorizing Officer of the Fund, who shall be responsible for managing the resources of the Fund.
2. The Chief Authorizing Officer shall:
  - (a) commit, clear and authorize expenditure and keep accounts of commitments and authorizations;
  - (b) ensure that financing decisions are carried out;



- (c) in close co-operation with the National Authorizing Officer make commitment decisions and financial arrangements that prove necessary to ensure proper execution of approved operations from the economic and technical viewpoints;
  - (d) approve the tender dossier before invitations to tender are issued, subject to the powers exercised by the Delegate under Article 317;
  - (e) ensure publication in reasonable time of invitations to tender in accordance with Article 295;
  - (f) approve the proposal for placing of the contract, subject to the powers exercised by the Delegate under Article 317.
3. *The Chief Authorizing Officer shall, at the end of each year, make available a detailed balance sheet of the Fund showing balances of contributions paid into the Fund by the Member States, global disbursements in respect of each financing heading including regional co-operation, emergency assistance, STABEX, SYSMIN and structural adjustment.*

## SECTION 2

### National Authorizing Officer

#### ARTICLE 312

1. The Government of each ACP State shall appoint a National Authorizing Officer to represent it in all operations financed from the resources of the Fund managed by the Commission. The National Authorizing Officer shall also be kept informed of operations financed from the resources managed by the Bank.
2. The National Authorizing Officer may delegate some of these functions and shall inform the Chief Authorizing Officer of any such delegation.

#### ARTICLE 313

1. The National Authorizing Officer shall:
  - (a) in close co-operation with the Delegate be responsible for the preparation, submission and appraisal of projects and programmes;
  - (b) in close co-operation with the Delegate, issue invitations to tender, receive tenders, preside over the examination of tenders, establish the results of this examination, sign contracts and riders thereto, and approve expenditure;
  - (c) submit, before issuing invitations to tender, the invitation to tender dossier to the Delegate who shall give his agreement within the time-limit set in Article 317;
  - (d) complete the evaluation of tenders within the tender validity period taking into consideration the period required for the approval of contracts;
  - (e) transmit the result of the examination of the tenders and a proposal for placing the contract to the Delegate who shall, within 30 days or such other time limit as set in Article 317, give his approval;
  - (f) clear and authorize expenditure within the limits of the funds assigned to him;
  - (g) during the execution operations, make any adaptation arrangements necessary to ensure the proper execution of approved projects or programmes from the economic and technical viewpoint.
2. The National Authorizing Officer shall, during the execution of operations and subject to the requirement to inform the Delegate, decide on:
  - (a) technical adjustments and alterations in matters of detail, so long as they do not affect the technical solution adopted and remain within the limits of the reserve for adjustments;
  - (b) alterations to estimates during execution;
  - (c) transfers from item to item within estimates;

- (d) changes of site for multiple-unit projects or programmes where justified on technical, economic or social grounds;
- (e) imposition or remission of penalties for delay;
- (f) acts discharging guarantors;
- (g) purchase of goods, irrespective of their origin, on the local market;
- (h) use of construction equipment and machinery not originating in the Member States or ACP States provided there is no production of comparable equipment and machinery in the Member States or ACP States;
- (i) subcontracting;
- (j) final acceptance, provided that the Delegate is present at provisional acceptance, endorses the corresponding minutes and, where appropriate, is present at the final acceptance, in particular where the extent of the reservations recorded at the provisional acceptance necessitates major additional work;
- (k) hiring of consultants and other technical assistance experts.

#### ARTICLE 314

All documents and proposals submitted by the National Authorizing Officer to the Commission or the Delegate for agreement or approval in accordance with this Convention shall be approved or deemed to be approved within the time limits laid down by this Convention, or within 30 days, where no time limit is stated in the Convention.

#### ARTICLE 315

At the end of each year of the period of application of the Convention, the National Authorizing Officer shall prepare a report on the operations covered by the national indicative programme and regional programmes in the ACP State concerned. The report shall include, *inter alia*;

- (a) the report referred to in Article 284 of this Convention relating to commitments, disbursements and the implementation timetable for the indicative programme as well as a progress report on projects and programmes;
- (b) commitments, disbursements, implementation timetable and progress on regional projects and programmes in that State;
- (c) in consultation with the Commission Delegate, the report referred to in Article 290 of this Convention relating to multiannual programmes;
- (d) an assessment of the operations in financial and technical co-operation in the ACP State, including regional programmes.

A copy of the report shall be submitted simultaneously to the Delegate and to the ACP General Secretariat not later than 90 days from the end of the year under review.

### SECTION 3

#### **The Delegate**

#### ARTICLE 316

1. The Commission shall be represented in each ACP State, or in each regional grouping which expressly so requests, by a Delegate approved by the ACP State or States concerned.
2. Where a Delegate is appointed to a group of ACP States, appropriate steps shall be taken to ensure that the Delegate is represented by a deputy resident in each of the States in which the Delegate is not resident.

## ARTICLE 317

The Delegate shall have the necessary instructions and delegated powers to facilitate and expedite the preparation, appraisal and execution of projects and programmes and shall be provided with the necessary back-up support to do so. To this end, and in close co-operation with the National Authorizing Officer, the Delegate shall:

- (a) at the request of the ACP State concerned, participate and give assistance in the preparation of projects and programmes and in negotiating technical assistance contracts;
- (b) participate in appraising projects and programmes, preparing tender dossiers, and seeking ways to simplify project and programme appraisal and implementation procedures;
- (c) prepare financing proposals;
- (d) for accelerated procedures, direct-agreement contracts, and contracts for emergency assistance, approve, before the National Authorizing Officer issues them, the invitation-to-tender dossier within 30 days of its submission to him by the National Authorizing Officer;
- (e) for all cases other than those mentioned in (d), transmit the invitation-to-tender dossier to the Chief Authorizing Officer for approval within 30 days of its submission to the Delegate by the National Authorizing Officer;
- (f) be present at the opening of tenders, and receive copies of them and of the results of their examination;
- (g) approve within 30 days the National Authorizing Officer's proposal for the placing of the contract for all:
  - (i) direct-agreement contracts;
  - (ii) service contracts;
  - (iii) contracts relating to emergency assistance, and
  - (iv) contracts by accelerated procedures, works contracts worth less than ECU 5 million and supply contracts worth less than ECU 1 million;
- (h) approve within 30 days the National Authorizing Officer's proposal for the placing of the contract not covered by paragraph (g) wherever the following conditions are fulfilled: the tender selected is the lowest of those conforming to the requirements of the tender dossier, meets all the selection criteria stated therein and does not exceed the sum earmarked for the contract;
- (i) where the conditions set out in paragraph (h) are not fulfilled, forward the proposal for the placing of the contract to the Chief Authorizing Officer who shall decide thereon within 60 days of the receipt by the Delegate. Where the price of the selected tender exceeds the sum earmarked for the contract, the Chief Authorizing Officer shall, upon giving approval to the award, make the necessary financial commitment;
- (j) endorse contracts and estimates in the case of direct labour, riders thereto, as well as payment authorizations issued by the National Authorizing Officer;
- (k) ensure that the projects and programmes financed from the resources of the Fund managed by the Commission are properly executed from the financial and technical viewpoints;
- (l) co-operate with the national authorities of the ACP State where he represents the Commission in evaluating operations regularly;
- (m) maintain close and continuous contacts with the National Authorizing Officer for the purpose of analysing and remedying specific problems encountered in the implementation of development finance co-operation;
- (n) in particular, make regular checks to see that operations are proceeding in accordance with the schedule laid down in the advance timetable in the financing decision;
- (o) communicate to the ACP State all information and relevant documents on the procedures for implementing development finance co-operation especially as regards appraisal criteria and tender evaluation criteria;
- (p) on a regular basis inform the national authorities of Community activities which may directly concern co-operation between the Community and the ACP States.

## ARTICLE 318

At the end of each year of the period of the Convention, the Delegate shall prepare a report on the implementation of the national indicative programme and regional programmes in particular as it relates to operations of the Fund managed by the Commission, and covering, *inter alia*;

- (a) the amount of the indicative programme, commitments, disbursements and the timetable for the implementation of the indicative programme and regional programmes;
- (b) a progress report on projects and programmes;
- (c) an assessment of the operations of the Fund in the ACP State and regional programmes.

A copy of the report shall be submitted simultaneously to the ACP States concerned and the Community.

## SECTION 4

### Payments and Paying Agents

## ARTICLE 319

1. For the purpose of effecting payments in the national currencies of the ACP States, accounts denominated in the currencies of the Member States or in ecus shall be opened in each ACP State in the name of the Commission with a national public or semi-public financial institution, chosen by agreement between the ACP State and the Commission. This institution shall exercise the functions of national Paying Agent.
2. The accounts referred to above shall be replenished by the Commission in the currency of one of the Member States or in ecus, based on estimates of future cash requirements, which shall be made sufficiently in advance to avoid need for pre-financing by ACP States and to prevent delayed disbursements.
3. The national Paying Agent shall receive no remuneration for its services, and no interest shall be payable by it on deposited funds.
4. For the purpose of effecting payments in ecus, accounts denominated in ecus shall be opened in the name of the Commission with financing institutions in the Member States. These institutions shall exercise the functions of Paying Agents in Europe. Payments from these accounts, which shall be executed on the instruction of the Commission or by the Delegate acting on its behalf, may be made in respect of expenditure authorized by the National Authorizing Officer or by the Chief Authorizing Officer with the prior authorization of the National Authorizing Officer.
5. Within the limits of the funds available in the accounts, the Paying Agents shall make disbursements authorized by the National Authorizing Officer or, as appropriate, the Chief Authorizing Officer, after verifying that the supporting documents provided are substantially correct and in order, and that the discharge given for payment is valid.
6. The procedures for clearance, authorization and payment of expenditure shall be completed within a period of 90 days from the date on which the payment becomes due. The National Authorizing Officer shall process and deliver the payment authorization to the Delegate not later than 45 days before the due date.
7. Claims for delayed payments shall be borne by the ACP State or States concerned, and by the Commission from its own resources, for that part of the delay for which each party is responsible in accordance with paragraph 8.
8. The Paying Agents, the National Authorizing Officer, the Delegate and the responsible Commission departments shall remain financially liable until the Commission gives final clearance for the operations for the execution of which they are responsible.

## SECTION 5

### Monitoring and Evaluation

#### ARTICLE 320

The objective of monitoring and evaluation shall consist in the external assessment of development operations (preparation, implementation and subsequent operation) with a view to improving the development effectiveness of ongoing and future operations. This work shall be done jointly by the ACP States and the Community.

#### ARTICLE 321

1. More specifically, this work will notably serve the following purposes:
  - (a) provide regular, joint and independent monitoring and evaluation of the Fund's operations and activities;
  - (b) organize the joint monitoring and evaluation of ongoing and completed operations, and compare the results of operations with their objectives. Administration, functioning and maintenance of operations should systematically be reviewed;
  - (c) account to the Council of Ministers for the outcome of the evaluation work and feed that experience back into the design and execution of future operations;
  - (d) ensure that the ACP States' comments are sought on all monitoring and evaluation reports, and further ensure, in all cases, that the ACP States' experts participate directly in monitoring, evaluation and preparation of the reports;
  - (e) ensure that the ACP States and the Community regularly programme evaluation work;
  - (f) synthesize results of monitoring and evaluation by sector, instrument, theme, country and region. To this end:
    - (i) reports on the results of monitoring and evaluation shall be drawn up and published at agreed intervals;
    - (ii) an annual review of operations performance results shall be prepared;
  - (g) ensure the adequate operational feed-back of monitoring and evaluation results into development policy and practice, by devising effective feed-back mechanisms, organizing seminars and work-shops and producing and distributing concise documentation highlighting the most important findings, conclusions and recommendations and, through a process of discussion and follow-up with policy and operating staff, bring that experience to bear on the design and execution of future operations and help to re-orient them;
  - (h) identify and disseminate lessons that can contribute to improvements in the design and implementation of future operations;
  - (i) collect and exploit relevant information available with national and international development co-operation organizations.
2. Areas of work to be covered will notably include the following:
  - (a) development sectors;
  - (b) development instruments and themes;
  - (c) country and regional reviews;
  - (d) individual development operations.

#### ARTICLE 322

In order to ensure its practical relevance to the objectives of the Convention and to improve the exchange of information, the Commission shall:

- (a) maintain close contacts with national evaluation units in ACP States and in the Community, as well as with the National Authorizing Officers, Commission delegations and other interested services in the ACP national administration and regional organizations;
- (b) assist the ACP States in initiating or strengthening monitoring and evaluation capacities, through consultation or through courses on monitoring and evaluation.

### ARTICLE 323

The ACP-EEC Development Finance Co-operation Committee shall ensure the joint character of monitoring and evaluation operations in accordance with the joint declaration in Annex LV.

### SECTION 6

#### ACP-EEC Development Finance Co-operation Committee

### ARTICLE 324

The Council of Ministers shall examine at least once a year whether the objectives of development finance co-operation are being attained and shall examine the general and specific problems resulting from the implementation of that co-operation. This examination shall also cover regional co-operation and measures in favour of least-developed, landlocked and island ACP States.

### ARTICLE 325

To this end, an ACP-EEC Development Finance Co-operation Committee, hereinafter referred to as "the ACP-EEC Committee", shall be set up within the Council of Ministers. The Committee shall:

- (a) collect information on existing procedures relating to the implementation of development co-operation and give any necessary clarification required on these procedures;
- (b) examine, at the request of the Community or the ACP States and on the basis of *concrete examples, any general or specific problems arising from the implementation of development co-operation*;
- (c) examine any problems in connection with the implementation of the time-tables of commitments and disbursements and for implementation of projects and programmes, with a view to facilitating the removal of any difficulties and bottle-necks discovered;
- (d) ensure that the objectives and principles of development co-operation are attained;
- (e) help to establish general guidelines for development co-operation;
- (f) formulate or adapt general conditions applicable to the award and performance of contracts in accordance with the provisions of the Convention;
- (g) review the results of monitoring and evaluation, and formulate any suggestions with a view to ensuring the effective implementation of monitoring and evaluation work and further consider proposals for future monitoring and evaluation activities;
- (h) review measures taken to ensure the cost-effectiveness of technical co-operation schemes and in particular the encouragement and development of ACP States' national and/or regional manpower capacities;
- (i) review the measures taken to ensure improved conditions and a better environment for the award of contracts to ACP firms;
- (j) examine the ways in which the instruments provided for in the Convention have been utilized to contribute to the attenuation of the financial burden caused by the debt of ACP States;
- (k) examine the economic, technical, legal and institutional instruments deployed within the framework of the Convention to attain the objectives of promoting private investment in order to discover the obstacles which currently hamper the development of the ACP States, as well as to determine the actions required to remove these obstacles;
- (l) review the measures which will facilitate an increased and more stable flow of private capital, and which will enhance:
  - (i) joint financing of productive investment with the private sector;
  - (ii) access by interested ACP States to international finance markets;
  - (iii) the creation, activity and effectiveness of domestic financial markets;

- (m) review the issues relating to the promotion and protection of investment in the ACP States and the Member States of the Community which affect their development co-operation;
- (n) report to the Council on any matter examined by it, and submit to the Council any suggestions likely to improve or expedite the implementation of development co-operation;
- (o) prepare and submit to the Council the results of evaluation of projects and programmes;
- (p) follow up and implement guidelines and resolutions adopted by the Council on development co-operation;
- (q) perform such other tasks as are entrusted to it by the Council.

#### ARTICLE 326

1. The ACP-EEC Committee, which shall meet every quarter, shall be composed, on a basis of parity, of representatives of the ACP States and of the Community appointed by the Council of Ministers, or their authorized representatives. It shall meet at ministerial level whenever one of the parties so requests and at least once a year. A representative of the Bank shall be present at committee meetings.
2. The Council of Ministers shall lay down the ACP-EEC Committee's rules of procedure, in particular the conditions for representation and the number of members of the Committee, the detailed arrangements for their deliberations and the conditions for holding the chair.
3. The ACP-EEC Committee may convene meetings of experts to study the cause of any difficulties and bottle-necks which may impede the efficient implementation of development co-operation. These experts shall make recommendations to the Committee on possible ways of removing such difficulties and bottle-necks.
4. Where a specific problem arising from the implementation of financial or technical co-operation is submitted to the Committee, the Committee shall examine it within 60 days of its submission with a view to providing an appropriate solution.
5. (a) The ACP-EEC Committee shall regularly review progress made in the implementation of regional co-operation. It shall in particular examine problems and policy issues submitted to it by the ACP States or by the Community and make any appropriate proposals.
- (b) Implementation of the provisions under development of services will be monitored and followed up by the ACP-EEC Committee.
6. The ACP-EEC Committee shall review the implementation of special measures in favour of least-developed, landlocked and island ACP States and in particular those which are identified as desirable in order to improve the attractiveness of those States to private investors.

#### ARTICLE 327

1. To facilitate the work of the Committee:
  - (a) the ACP States and their beneficiary regional organizations in collaboration with the ACP Secretariat, on the one hand, and the Commission in collaboration with the Bank, on the other hand, shall submit to the Committee annual reports on the management of development finance co-operation;
  - (b) an annual report on monitoring and evaluation operations/activities will be submitted to the Committee in accordance with the joint declaration in Annex LV;
  - (c) the Commission, in collaboration with the Bank, shall produce reports for the information of the Committee on results of co-ordination in the field of investment and private sector support;

- (d) the Commission shall produce reports and studies for the information of the Committee on:
- investment flows between the Community and the ACP States; economic, legal or institutional obstacles hampering those investments; measures which will facilitate private capital movements, joint financing, access by the ACP States to international financial markets and the operation of domestic financial markets;
  - activities undertaken by national and international systems of investment guarantee;
  - investment promotion and protection agreements between Community Member States and ACP States.
2. The ACP-EEC Committee shall examine the reports on development finance co-operation, monitoring and evaluation and investment which shall be submitted to it pursuant to paragraph 1. It shall:
- (a) prepare an annual progress report, which shall be examined by the Council of Ministers at its annual meeting on the definition of the general guidelines for development finance co-operation;
  - (b) submit to the Council any observations, information or proposals on the problems concerning the implementation of the economic development finance co-operation, and also on the general problems of this co-operation; and
  - (c) draw up for the attention of the Council of Ministers, recommendations and resolutions relating to measures directed towards attainment of the objectives of development finance co-operation, within the framework of the powers conferred upon it by that Council.
3. On the basis of the information referred to in paragraph 2, the Council of Ministers shall establish the general guidelines for development finance co-operation and shall adopt resolutions or guidelines on the measures to be taken by the Community and the ACP States in order to ensure that the objectives of such co-operation are attained.

#### TITLE IV

##### **General Provisions for the Least-Developed, Landlocked and Island ACP States**

##### ARTICLE 328

Special attention shall be paid to the least-developed, landlocked and island ACP States and the specific needs and problems of each of these three groups of countries in order to enable them to take full advantage of the opportunities offered by the Convention, so as to step up their respective rates of development.

Independently of the specific measures and provisions for the least-developed, landlocked and island countries in the different chapters of the Convention, special attention shall be paid, in respect of these groups, to:

- the strengthening of regional co-operation;
- transport and communications infrastructure;
- the efficient exploitation of marine resources and the marketing of products so produced and, in the case of landlocked countries, inland fisheries;
- structural adjustment where account will be taken of the level of development of these countries and equally, at the implementation stage, of the social dimension of adjustment;
- the implementation of food strategies and integrated development programmes.



## CHAPTER 1

### Least-Developed ACP States

#### ARTICLE 329

The least-developed ACP States shall be accorded special treatment in order to enable them to overcome the serious economic and social difficulties hindering their development, so as to step up their respective rates of development.

#### ARTICLE 330

1. The following shall be considered least-developed ACP States for the purposes of this Convention:

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

2. The list of least-developed ACP States may be amended by decision of the Council of Minister where:

- a third State in a comparable situation accedes to this Convention,
- the economic situation of an ACP State undergoes a significant and lasting change, either so as to necessitate its inclusion in the category of least-developed ACP States or so that its inclusion in that category is no longer warranted.

#### ARTICLE 331

The provisions laid down pursuant to Article 329 in respect of the least-developed ACP States are contained in the following Articles:

1. *Objectives*  
—Articles 8 and 26
2. *Agricultural co-operation, food security and rural development*  
—Article 52
3. *Technical Centre for Agricultural and Rural Development*  
—Article 53(3)
4. *Development of fisheries*  
—Article 62
5. *Industrial co-operation*  
—Article 97(1) and (2)
6. *Development of services*  
—Article 116

7. *Trade development*  
—Article 136(5)
8. *Regional co-operation*  
—Article 165
9. *Safeguard measures—trade co-operation*  
—Article 180
10. *STABEX*  
—Article 189(3)  
—Article 196(2)  
—Article 197(3) and (4)
11. *SYSMIN*  
—Article 215(1)
12. *Development finance co-operation*  
—Article 220(o)
13. *Recurrent cost financing*  
—Article 227(2)
14. *Allocation of resources*  
—Article 238
15. *Structural adjustment*  
—Article 246(3)
16. *Micro-projects*  
—Article 252(4)
17. *Appraisal of projects*  
—Article 287(3)
18. *Implementation of special measures*  
—Article 324  
—Article 326(6)
19. *Protocol on rules of origin*  
—Article 30(2)  
—Article 31(5)

## CHAPTER II

### Landlocked ACP States

#### ARTICLE 332

Specific provisions and measures shall be established to support landlocked ACP States in their efforts to overcome the geographical difficulties and other obstacles hampering their development, so as to enable them to step up their respective rates of development.

#### ARTICLE 333

1. The landlocked ACP States are:

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

2. The list of landlocked ACP States may be amended by decision of the Council of Minister where a third State in a comparable situation accedes to this Convention.

#### ARTICLE 334

The provisions laid down pursuant to Article 332 in respect of the landlocked ACP States are contained in the following Articles:

1. *Objectives*  
—Article 8
2. *Agricultural co-operation, food security and rural development*  
—Article 52
3. *Development of fisheries*  
—Article 62
4. *Industrial co-operation*  
—Article 97(1)
5. *Development of services*  
—Article 116
6. *Trade development*  
—Article 136(5)
7. *Regional co-operation*  
—Article 159(g)  
—Article 165
8. *Safeguard measures—trade co-operation*  
—Article 180
9. *STABEX*  
—Article 196(2)  
—Article 197(4)
10. *SYSMIN*  
—Article 215(1)
11. *Allocation of resources*  
—Article 238
12. *Development finance co-operation*  
—Article 220(o)
13. *Implementation of special measures*  
—Article 324  
—Article 326(6)

#### CHAPTER III

#### Island ACP States

#### ARTICLE 335

Specific provisions and measures shall be established to support island ACP States in their efforts to overcome the natural and geographical difficulties and other obstacles hampering their development, so as to enable them to step up their respective rates of development.

#### ARTICLE 336

1. The island ACP States are:

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

2. The list of island ACP States may be amended by decision of the Council of Ministers where a third State in a comparable situation accedes to this Convention.

#### ARTICLE 337

The provisions laid down pursuant to Article 335 in respect of the island ACP States are contained in the following Articles:

1. *Objectives*  
—Article 8
2. *Agricultural co-operation, food security and rural development*  
—Article 52
3. *Development of fisheries*  
—Article 62
4. *Industrial co-operation*  
—Article 97(1)
5. *Development of services*  
—Article 116
6. *Trade development*  
—Article 136(5)
7. *Regional co-operation*  
—Article 165
8. *Safeguard measures—trade co-operation*  
—Article 180
9. *STABEX*  
—Article 196(2)  
—Article 197(4)
10. *SYSMIN*  
—Article 215(1)
11. *Development finance co-operation*  
—Article 220(o)
12. *Allocation of resources*  
—Article 238
13. *Implementation of special measures*  
—Article 324  
—Article 326(6)
14. *Protocol on rules of origin*  
—Article 31(5)

**PART FOUR**  
**OPERATION OF THE INSTITUTIONS**

**CHAPTER I**

**The Council of Ministers**

**ARTICLE 338**

The Council of Ministers shall act by agreement between the Community on the one hand and the ACP States on the other.

**ARTICLE 339**

1. The proceedings of the Council of Ministers shall be valid only if half the members of the Council of the European Communities, one member of the Commission and two-thirds of the members representing the governments of the ACP States are present.
2. Any member of the Council of Ministers unable to attend may be represented. The representative shall exercise all the rights of that member.
3. The Council of Ministers shall lay down its rules of procedure. These rules shall provide for the possibility at each Council meeting of a thorough examination of major areas of co-operation, if need be after preparatory work in accordance with Article 342(6).

**ARTICLE 340**

The office of the President of the Council of Ministers shall be held alternately by a member of the Council of the European Communities and a member of the government of an ACP State.

**ARTICLE 341**

1. Meetings of the Council of Ministers shall be called once a year by its President.
2. The Council of Ministers shall, in addition, meet whenever necessary, in accordance with the conditions laid down in the rules of procedure.
3. The co-Presidents assisted by advisers, may have regular consultations and exchanges of views between meetings of the Council of Ministers.

**ARTICLE 342**

1. The Council of Ministers shall review periodically the results of the arrangements under this Convention and shall take such measures as may be necessary for the attainment of the objectives of this Convention.

The Council of Ministers shall, to that end and at the request of one of the parties, examine and may take into consideration any resolutions or recommendations made in that respect by the Joint Assembly.

2. Decisions taken by the Council of Ministers in the cases provided for by this Convention shall be binding on the Contracting Parties, which shall take such measures as are necessary to implement those decisions.
3. The Council of Ministers may also formulate such resolutions, declarations, recommendations or opinions as it may deem necessary to attain the objectives and to ensure the smooth functioning of this Convention.
4. The Council of Ministers shall publish an annual report and such other information as it considers appropriate.
5. The Community or the ACP States may raise in the Council of Ministers any problems arising from the application of this Convention.

6. The Council of Ministers may set up committees or *ad hoc* working parties to undertake such activities as it deems necessary, in particular, to prepare, if appropriate, its deliberation on specific co-operation areas or problems, in accordance with the provisions of Article 346(2).

#### ARTICLE 343

Pursuant to Article 30(2)(h) and Articles 20, 21 and 22 concerning decentralized co-operation, the Council of Ministers shall organize contacts between the relevant organizations in the Community and the ACP States (decentralized public authorities and unofficial bodies) to examine in practical terms how and under what conditions their initiatives can be organized, with a view to contributing to the pursuit of the development objectives of the ACP States. Which of the above mentioned bodies attend these meetings will depend on the items on the agenda and the practical capacity of the bodies concerned to contribute to development objectives in the areas under discussion.

These contacts shall improve the access of the parties concerned to information on the development policies conducted by the ACP States and on ACP-EEC co-operation operations and shall provide for an exchange of information and discussions on the opportunities for decentralized co-operation operations.

#### ARTICLE 344

Without prejudice to Article 342(6), the Council of Ministers may, at its meetings, delegate the task of preparing its discussions and conclusions on specific items on the agenda to restricted ministerial working parties constituted on a basis of parity.

#### ARTICLE 345

The Council of Ministers may delegate to the Committee of Ambassadors any of its powers. In this event, the Committee of Ambassadors shall take its decisions in accordance with the conditions laid down in Article 338.

### CHAPTER 2

#### The Committee of Ambassadors

#### ARTICLE 346

1. The Committee of Ambassadors shall account for its actions to the Council of Ministers, particularly in matters which have been the subject of delegation of powers. It shall also submit to the Council of Ministers any proposals, resolutions, recommendations or opinions which it may deem necessary or consider appropriate.
2. The Committee of Ambassadors shall supervise the work of all the committees and all other bodies, groups or working parties, whether standing or *ad hoc*, established or provided for below ministerial level under this Convention and submit periodic reports to the Council of Ministers.
3. In the performance of its duties the Committee of Ambassadors shall meet at least once every six months.

#### ARTICLE 347

1. The office of Chairman of the Committee of Ambassadors shall be held alternately by a Permanent Representative of a Member State designated by the Community, and a head of mission representing an ACP State designated by the ACP States.
2. Any member of the Committee of Ambassadors unable to attend may be represented. The representative shall exercise all the rights of that member.
3. The Committee of Ambassadors shall lay down its rules of procedure, which shall be submitted to the Council of Ministers for approval.

## CHAPTER 3

### Provisions Common to the Council of Ministers and the Committee of Ambassadors

#### ARTICLE 348

A representative of the Bank shall be present at meetings of the Council of Ministers or Committee of Ambassadors when matters from the areas which concern the Bank are on the agenda.

#### ARTICLE 349

The secretariat duties and other work necessary for the functioning of the Council of Ministers and the Committee of Ambassadors or other joint bodies shall be carried out on a basis of parity and in accordance with the conditions laid down in the rules of procedure of the Council of Ministers.

## CHAPTER 4

### The Joint Assembly

#### ARTICLE 350

The Joint Assembly shall consider the annual report drawn up under Article 342(4).

It may adopt resolutions on matters concerning or covered by this Convention.

It may, in order to attain the objectives of this Convention, submit to the Council of Ministers any conclusions and make any recommendations it considers appropriate, in particular when examining the Council of Ministers' annual report.

#### ARTICLE 351

1. The Joint Assembly shall appoint its Bureau and shall adopt its own rules of procedure.
2. It shall hold a general session twice a year, alternately in the Community and in an ACP State.
3. It may set up *ad hoc* working parties to undertake such specific preparatory activities as it shall determine.
4. The secretariat duties and other work necessary for the functioning of the Joint Assembly shall be carried out on the basis of parity and in accordance with the conditions laid down in its rules of procedure.

## CHAPTER 5

### Other Provisions

#### ARTICLE 352

1. Any dispute which arises between one or more Member States or the Community, on the one hand, and one or more ACP States, on the other, concerning the interpretation or the application of this Convention shall be referred to the Council of Ministers.
2. Between meetings of the Council of Ministers, such disputes shall be referred to the Committee of Ambassadors for settlement.
3. If the Committee of Ambassadors fails to settle the dispute, it shall refer the matter to the Council of Ministers at its next meeting.
4. If the Council of Ministers fails to settle the dispute at that meeting it may, at the request of either Contracting Party, initiate a good offices procedure, the result of which shall be transmitted to the Council in the form of a report at its next meeting.

5. (a) If a settlement of the dispute is not reached, the Council of Ministers shall initiate an arbitration procedure at the request of either Contracting Party. Two arbitrators shall be appointed by the parties to the dispute within thirty days, one by either side as set out in paragraph 1. The two arbitrators in question shall then appoint a third arbitrator within two months. Should the latter not be appointed within the time limit set, he shall be appointed by the co-President of the Council of Ministers from among eminent persons providing every guarantee of independence.
- (b) The decision of the arbitrators shall be taken by majority vote, as a general rule within five months.
- (c) Each party to the dispute must take the measures required for the implementation of the arbitrators' decision.

#### ARTICLE 353

The Contracting Parties shall make every endeavour, without prejudice to the provisions of this Convention, to reach a joint interpretation where there are differences of opinion between the Community and the ACP States as to the interpretation of the texts in connection with the application of this Convention. To this end, such problems shall undergo joint examination by the institutions with a view to resolving them.

#### ARTICLE 354

The operating expenses of the institutions of this Convention shall be defrayed in accordance with the terms set out in Protocol 2.

#### ARTICLE 355

The privileges and immunities for the purposes of this Convention shall be as laid down in Protocol 3.



**PART FIVE**  
**FINAL PROVISIONS**

**ARTICLE 356**

No treaty, convention, agreement or arrangement of any kind between one or more Member States of the Community and one or more ACP States may impede the implementation of this Convention.

**ARTICLE 357**

Subject to the special provisions regarding the relations between the ACP States and the French overseas departments provided for therein, this Convention shall apply, on the one hand, to the territories in which the Treaty is applied and under the conditions laid down in that Treaty and, on the other hand, to the territories of the ACP States.

**ARTICLE 358**

1. Should a third country wish to accede to the Community, the latter shall, as soon as it has decided to enter into negotiations on such accession, inform the ACP States of its decision.
2. The Contracting Parties further agree:
  - (a) to establish, in the course of accession negotiations, regular contacts during which:
    - the Community shall provide the ACP States with all relevant information on the progress of the negotiations,
    - the ACP States shall inform the Community of their concerns and positions so that they may be taken fully into account;
  - (b) to examine without delay, after the conclusion of the accession negotiations, the effects of such accession on this Convention, and to engage in negotiations in order to establish a protocol of accession and adopt the measures of adaptation or transition that may become necessary, to be annexed to the said protocol, of which they shall constitute an integral part.
3. Without prejudice to any transitional arrangements that may be adopted, the Contracting Parties recognize that the provisions of the Convention do not apply in relations between the ACP States and a new Member State of the Community as long as the protocol of accession to the Convention referred to in paragraph 2(b) has not entered into force.

**ARTICLE 359**

1. (a) As regards the Community, this Convention shall be validly concluded in accordance with the provision of the EEC and ECSC Treaties; the conclusion shall be notified to the parties.  
(b) This Convention shall be ratified by the Signatory States in conformity with their respective constitutional requirements.
2. The instruments of ratification and the act of notification of the conclusion of this Convention shall be deposited, as concerns the ACP States, with the Secretariat of the Council of the European Communities and, as concerns the Community and the Member States, with the Secretariat of the ACP States. The Secretariats shall give notice thereof forthwith to the Signatory States and the Community.

**ARTICLE 360**

1. This Convention shall enter into force on the first day of the second month following the date of deposit of the instruments of ratification of the Member States and of at least two-thirds of the ACP States, and of the act of notification of the conclusion of this Convention by the Community<sup>1</sup>.

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<sup>1</sup>The Convention entered into force on 1 September 1991.

2. Any ACP State which has not completed the procedures set out in Article 359 by the date of the entry into force of this Convention as specified in paragraph 1 may do so only within the 12 months following such entry into force and shall be able to proceed with these procedures only during the 12 months following such entry into force, unless before the expiry of this period it gives notice to the Council of Ministers of its intentions to complete these procedures not later than six months after this period on the condition that it undertakes the deposit of its instrument of ratification within the same time limit.

3. As regards those ACP States which have not completed the procedures set out in Article 359 by the date of entry into force of this Convention as specified in paragraph 1, this Convention shall become applicable on the first day of the second month following the completion of the said procedures.

4. Signatory ACP States which ratify this Convention in accordance with the conditions laid down in paragraph 2 shall recognize the validity of all measures taken in implementation of this Convention between the date of its entry into force and the date when its provisions become applicable to them. Subject to any extension which may be granted to them by the Council of Ministers they shall, not later than six months following the completion of the procedures referred to in Article 359, carry out all the obligations which devolve upon them under the terms of this Convention or of implementing decisions adopted by the Council of Ministers.

5. The rules of procedure of the joint institutions set up under this Convention shall lay down whether and under what conditions the representatives of Signatory States which on the date of entry into force of this Convention have not yet completed the procedures referred to in Article 359, shall sit in those institutions as observers. The arrangements thus adopted shall be effective only until the date on which this Convention becomes applicable to these States; such arrangements shall in any case cease to apply on the date on which, pursuant to paragraph 2, the State concerned may no longer ratify this Convention.

#### ARTICLE 361

1. The Council of Ministers shall be informed of any request by any State for membership of, or association with, the Community.
2. The Council of Ministers shall be informed of any request made by any State wishing to become a member of an economic grouping composed of ACP States.

#### ARTICLE 362

1. Any request for accession to this Convention by a country or territory to which Part Four of the Treaty applies, and which becomes independent, shall be referred to the Council of Ministers.
2. With the approval of the Council of Ministers, the country in question shall accede to this Convention by depositing an instrument of accession with the Secretariat of the Council of the European Communities, which shall transmit a certified copy to the Secretariat of the ACP States and shall give notice thereof to the Signatory States.
3. That country shall then enjoy the same rights and be subject to the same obligations as the ACP States. Such accession shall not adversely affect the advantages accruing to the ACP States signatory to this Convention from the provisions on development finance co-operation and on the stabilization of export earnings.

#### ARTICLE 363

1. Any request for accession to this Convention submitted by a State whose economic structure and production are comparable with those of the ACP States shall require approval by the Council of Ministers. The State concerned may accede to this Convention by concluding an agreement with the Community.
2. That State shall then enjoy the same rights and be subject to the same obligations as the ACP States.

3. The agreement may, however, stipulate the date on which certain of those rights and obligations shall become applicable to that State.

4. Such accession shall not, however, adversely affect the advantages accruing to the ACP States signatory to this Convention under the provisions on development finance co-operation, the stabilization of export earnings and industrial co-operation.

#### ARTICLE 364

If Namibia, on becoming independent, requests accession to the Convention and its request is received after the actual process for the ratification of the Convention has begun but before its entry into force, the Council of Ministers shall act on the request and take a decision on the accession of that State. At the same time it shall also take any necessary decision regarding that State in areas falling under Part Three, Titles I and IV of the Convention and the Annexes to the Final Act regarding these parts of the Convention, including beef.

In the event of a positive decision, Namibia will be added to the States Signatory to the Convention, particularly as regards the ratification and entry into force thereof.

#### ARTICLE 365

As from the entry into force of this Convention, the powers conferred upon the Council of Ministers by the third ACP-EEC Convention shall be exercised, insofar as is necessary and in compliance with the relevant provisions of the said Convention, by the Council of Ministers set up by this Convention.

#### ARTICLE 366

1. This Convention is hereby concluded for a period of 10 years, commencing on 1 March 1990.

2. The Community and the Member States, on the one hand, and the ACP States, on the other, shall notify the other Party not later than twelve months before the expiry of the first five-year period of any review of the provisions they desire to make with a view to a possible amendment of the Convention. Notwithstanding this time-limit, if one Party requests the review of any provisions of the Convention, the other Party shall have a period of two months in which to request the extension of the review to other provisions related to those which were the subject of the initial request.

Ten months before the expiry of this five-year period, the Contracting Parties shall enter into negotiations with a view to examining any possible amendments to the provisions that were the subject of the notification.

Articles 359 and 360 on the conclusion, ratification and entry into force of the Convention shall also apply to amendments thus made to the Convention.

The Council of Ministers shall adopt any transitional measures that may be required in respect of the amended provisions until they come into force.

3. Eighteen months before the end of the total period of the Convention, the Contracting Parties shall enter into negotiations in order to examine what provisions shall subsequently govern relations between the Community and the Member States, on the one hand, and the ACP States, on the other.

The Council of Ministers shall adopt any transitional measures that may be required until the new Convention comes into force.

#### ARTICLE 367

This Convention may be denounced by the Community in respect of each ACP State and by each ACP State in respect of the Community, upon six months' notice.

ARTICLE 368

The Protocols annexed to this Convention shall form an integral part thereof.

ARTICLE 369

This Convention, drawn up in two copies in the Danish, Dutch, English, French, German, Greek, Italian, Portuguese and Spanish languages, all texts being equally authentic, shall be deposited in the archives of the General Secretariat of the Council of the European Communities and the Secretariat of the ACP States, which shall both transmit a certified copy to the government of each of the Signatory States.

## SIGNATURES AND RATIFICATIONS

<i>State</i>	<i>Date of signature</i>	<i>Date of deposit of ratification,</i>
Belgium ... ..	15 Dec. 1989	12 Jul. 1991
Denmark ... ..	15 Dec. 1989	4 Jul. 1991
France ... ..	15 Dec. 1989	1 Feb. 1991
Germany, Federal Republic of ... ..	15 Dec. 1989	31 Jan. 1991
Greece ... ..	15 Dec. 1989	28 May 1991
Ireland, Republic of ... ..	15 Dec. 1989	7 May 1991
Italy ... ..	15 Dec. 1989	29 May 1991
Luxembourg ... ..	15 Dec. 1989	20 Jun. 1991
Netherlands ... ..	15 Dec. 1989	31 May 1991
Portugal ... ..	15 Dec. 1989	24 Jul. 1991
Spain ... ..	15 Dec. 1989	31 May 1991
United Kingdom ... ..	15 Dec. 1989	30 May 1991
Council and Commission of the European Communities ... ..	15 Dec. 1989	25 Feb. 1991
of the one part, and		
Angola ... ..	15 Dec. 1989	15 Oct. 1991
Antigua and Barbuda ... ..	27 Nov. 1990	19 Jun. 1991
Bahamas ... ..	15 Dec. 1989	28 Sept. 1990
Barbados ... ..	15 Dec. 1989	2 Oct. 1990
Belize ... ..	15 Dec. 1989	17 Jan. 1992
Benin ... ..	15 Dec. 1989	2 Sept. 1991
Botswana ... ..	15 Dec. 1989	7 Sept. 1990
Burkina Faso... ..	15 Dec. 1989	10 Apr. 1991
Burundi ... ..	15 Dec. 1989	21 Sept. 1990
Cameroon ... ..	15 Dec. 1989	4 Apr. 1991
Cape Verde ... ..	15 Dec. 1989	4 Nov. 1991
Central African Republic ... ..	15 Dec. 1989	4 Oct. 1991
Chad ... ..	15 Dec. 1989	13 May 1991
Comoros ... ..	15 Dec. 1989	24 Jun. 1991
Congo ... ..	15 Dec. 1989	20 Nov. 1991
Côte d'Ivoire ... ..	15 Dec. 1989	23 Nov. 1990
Djibouti ... ..	15 Dec. 1989	2 May 1991
Dominica ... ..	15 Dec. 1989	31 Aug. 1990
Dominican Republic* ... ..	15 Dec. 1989	14 Nov. 1990
Equatorial Guinea ... ..	15 Dec. 1989	2 Sept. 1991
Ethiopia ... ..	15 Dec. 1989	15 Mar. 1991
Fiji ... ..	15 Dec. 1989	29 Jun. 1990
Gabon ... ..	15 Dec. 1989	5 Feb. 1992
Gambia, The ... ..	15 Dec. 1989	26 Oct. 1990
Ghana ... ..	15 Dec. 1989	8 Mar. 1991
Grenada ... ..	15 Dec. 1989	6 Jul. 1990
Guinea ... ..	15 Dec. 1989	4 Sept. 1990
Guinea Bissau ... ..	15 Dec. 1989	3 Oct. 1990
Guyana ... ..	15 Dec. 1989	23 Aug. 1990
Haiti ... ..	15 Dec. 1989	16 May 1990
Jamaica ... ..	24 Jan. 1990	10 Jan. 1991
Kenya ... ..	15 Dec. 1989	21 Dec. 1990
Kiribati ... ..	15 Dec. 1989	18 Mar. 1992
Lesotho ... ..	15 Dec. 1989	7 Dec. 1990
Liberia ... ..	15 Dec. 1989	20 May 1992
Madagascar ... ..	15 Dec. 1989	27 Feb. 1991
Malawi ... ..	15 Dec. 1989	5 Feb. 1991
Mali ... ..	15 Dec. 1989	14 Sept. 1990
Mauritania ... ..	15 Dec. 1989	29 Apr. 1991
Mauritius ... ..	15 Dec. 1989	1 Oct. 1990
Mozambique ... ..	15 Dec. 1989	15 Mar. 1991

Namibia	...	...	...	...	...	19 Dec. 1990	31 Oct. 1991
Niger	...	...	...	...	...	15 Dec. 1989	7 May 1991
Nigeria	...	...	...	...	...	15 Dec. 1989	31 Oct. 1991
Papua New Guinea	...	...	...	...	...	15 Dec. 1989	8 Oct. 1990
Rwanda	...	...	...	...	...	15 Dec. 1989	14 May 1991
St Christopher and Nevis	...	...	...	...	...	27 Nov. 1990	18 Jan. 1991
St Lucia	...	...	...	...	...	15 Dec. 1989	5 Dec. 1990
St Vincent and the Grenadines	...	...	...	...	...	15 Dec. 1989	6 Nov. 1990
Sao Tomé and Príncipe	...	...	...	...	...	15 Dec. 1989	25 Sept. 1990
Senegal	...	...	...	...	...	15 Dec. 1989	21 Nov. 1990
Seychelles	...	...	...	...	...	15 Dec. 1989	3 Oct. 1990
Sierra Leone	...	...	...	...	...	15 Dec. 1989	7 May 1991
Solomon Islands	...	...	...	...	...	15 Dec. 1989	16 Jul. 1991
Somali Democratic Republic	...	...	...	...	...	15 Dec. 1989	
Sudan	...	...	...	...	...	15 Dec. 1989	25 Apr. 1990
Suriname	...	...	...	...	...	15 Dec. 1989	15 Jan. 1991
Swaziland	...	...	...	...	...	15 Dec. 1989	25 Mar. 1991
Tanzania	...	...	...	...	...	15 Dec. 1989	13 Mar. 1991
Togo	...	...	...	...	...	15 Dec. 1989	2 Jul. 1991
Tonga	...	...	...	...	...	15 Dec. 1989	4 Nov. 1991
Trinidad and Tobago	...	...	...	...	...	15 Dec. 1989	31 May 1990
Tuvalu	...	...	...	...	...	15 Dec. 1989	
Uganda	...	...	...	...	...	15 Dec. 1989	17 Sept. 1990
Vanuatu	...	...	...	...	...	15 Dec. 1989	7 Feb. 1992
Western Samoa	...	...	...	...	...	15 Dec. 1989	19 Nov. 1990
Zaire	...	...	...	...	...	15 Dec. 1989	27 Dec. 1990
Zambia	...	...	...	...	...	15 Dec. 1989	4 Apr. 1991
Zimbabwe	...	...	...	...	...	15 Dec. 1989	15 Oct. 1990

\* In letters exchanged at Lomé on 15 December 1989 between the Dominican Republic and the Council of the European Communities, The Dominican Republic confirmed that they do not wish to accede to the Protocol to the ACP-EEC Convention on ACP Sugar.

## PROTOCOLS

### Financial Protocol

#### ARTICLE 1

1. For the purposes set out in Part Three, Title III of the Convention on development finance co-operation, and for a period of five years commencing on 1 March 1990, the overall amount of the Community's financial assistance to be made available shall be ECU 12,000 million.

This amount shall comprise:

- (a) ECU 10,800 million from the Fund, allocated as follows:
  - (i) for the purposes set out in Articles 220, 221 and 224, ECU 7 995 million in the form of grants, including ECU 1 150 million for structural adjustment support, which can be complemented, in accordance with Article 281(2)(e), as part of long-term development assistance;
  - (ii) for the purpose set out in Articles 220, 221 and 224, ECU 825 million in the form of risk capital;
  - (iii) for the purposes set out in Articles 186 to 212: ECU 1 500 million in the form of grant for the stabilization of export earnings;
  - (iv) for the purposes set out in Articles 214 to 219: ECU 480 million in the form of grants under the SYSMIN scheme;
- (b) for the purposes set out in Articles 220, 221 and 224: up to ECU 1 200 million from the Bank in the form of loans on its own resources in accordance with the terms and conditions provided for by its statute. These loans shall be subject to the provisions of Article 235 of the Convention relating to interest rate subsidies.

2. The Bank shall administer the loans on its own resources, including interest subsidies, as well as risk capital. All other resources of the Convention shall be administered by the Commission.

#### ARTICLE 2

For the financing of the assistance referred to in Articles 254 and 255:

- (a) a special appropriation of ECU 350 million shall be constituted within the funds referred to in Article 1(a)(i), of which ECU 250 million shall be for the assistance referred to in Article 254 and ECU 100 million for the assistance referred to in Article 255;
- (b) should the appropriations provided for under one of the aforementioned Articles be used before this Financial Protocol expires, transfers may be made from the appropriations provided for in the other Article;
- (c) on the expiry of the Financial Protocol, appropriations not committed for emergency assistance or aid for refugees, returnees and displaced persons shall be paid back to the assets of the Fund for the purpose of financing other operations coming within the scope of development finance co-operation, save as otherwise decided by the Council of Ministers;
- (d) should the special appropriations be used before the Financial Protocol expires, the ACP States and the Community, within the relevant joint institutions, shall adopt appropriate measures to deal with the situations referred to in Articles 254 and 255.

#### ARTICLE 3

1. Of the overall financial resources made available under Article 1, an amount of ECU 1 250 million shall be reserved for the financing of the regional projects and programmes of the ACP States.

2. From the resources earmarked under this Article, the Community shall contribute:
  - (i) to the financing of the budget of the Centre for the Development of Industry by means of a separate allocation of a maximum of ECU 60 million;
  - (ii) an amount not exceeding ECU 3 million for the purposes referred to in Annex LXVIII;
  - (iii) an indicative amount of ECU 70 million for the financing of regional programmes pertaining to trade development as foreseen in Article 138.

#### ARTICLE 4

A new Financial Protocol shall be concluded for the second five-year period covered by this Convention.



## PROTOCOL 1

### concerning the definition of the concept of "originating products" and methods of administrative co-operation

#### TITLE I

#### Definition of the Concept of Originating Products

##### ARTICLE 1

##### Origin criteria

For the purpose of implementing the trade co-operation provisions of the Convention, a product shall be considered to be originating in the ACP States if it has been either wholly obtained or sufficiently worked or processed in the ACP States.

##### ARTICLE 2

##### Wholly obtained products

1. The following shall be considered as wholly obtained either in the ACP States, or in the Community, or in the countries and territories defined in Annex III, hereinafter referred to as the "OCT":
  - (a) mineral products extracted from their soil or from their seabed;
  - (b) vegetable products harvested therein;
  - (c) live animals born and raised therein;
  - (d) products from live animals raised therein;
  - (e) products obtained by hunting or fishing conducted therein;
  - (f) products of sea fishing and other products taken from the sea by their vessels;
  - (g) products made aboard their factory ships exclusively from products referred to in subparagraph (f);
  - (h) used articles collected there fit only for the recovery of raw materials;
  - (i) waste and scrap resulting from manufacturing operations conducted therein;
  - (j) goods produced there exclusively from the products specified in subparagraphs (a) to (i).
2. The term "their vessels" in paragraph 1(f) shall apply only to vessels:
  - which are registered or recorded in a Member State, in an ACP State, or in an OCT,
  - which sail under the flag of a Member State, of an ACP State, or of an OCT,
  - which are owned to an extent of at least 50% by nationals of States party to the Convention, or of an OCT, or by a company with its head office in one of these States or OCT, of which the manager or managers, chairman of the board of directors or the supervisory board, and the majority of the members of such boards, are nationals of States party to the Convention or of an OCT and of which, in addition in the case of partnerships or limited companies, at least half the capital belongs to States party to the Convention or to public bodies or nationals of such States, or of an OCT,
  - of which at least 50% of the crew, master and officers included, are nationals of States party to the Convention, or of an OCT.
3. Notwithstanding the provisions of paragraph 2, where an ACP State offers the Community the opportunity to negotiate a fisheries agreement and the Community does not accept this offer, the ACP State concerned may charter or lease third country vessels to undertake fisheries activities in its exclusive economic zone and request that such vessels be treated as "their vessels" under the provisions of this Article.

The Community will recognize vessels chartered or leased by the ACP State as "their vessels" under the following conditions:

- that the Community has not availed itself of the opportunity to negotiate a fisheries agreement with the ACP State concerned,
- that at least 50% of the crew, master and officers included, are nationals of States party to the Convention, or of an OCT,
- that the charter or lease contract has been accepted by the Commission as providing adequate opportunities for developing the capacity of the ACP State to fish on its own account and in particular as conferring on the ACP State the responsibility for the nautical and commercial management of the vessel placed at its disposal for a significant period of time.

4. The terms "ACP State", "the Community" and "OCT" shall also cover their territorial waters.

Sea-going vessels, including factory ships, on which the fish caught is worked or processed shall be considered as part of the territory of the ACP States, the Community or the OCT to which they belong, provided that they satisfy the conditions set out in paragraph 2.

### ARTICLE 3

#### Sufficiently processed products

1. For the purposes of Article 1, non-originating materials are considered to be sufficiently worked or processed when the product obtained is classified in a heading which is different from those in which all the non-originating materials used in its manufacture are classified, subject to paragraphs 2 and 3.

The expressions "chapters" and "headings" used in this protocol shall mean the chapters and the headings (four-digit codes) used in the Nomenclature which makes up the Harmonized Commodity Description and Coding System (hereinafter referred to as "the Harmonized System").

The expression "classified" shall refer to the classification of a product or material under a particular heading.

2. For a product mentioned in columns 1 and 2 of the list in Annex II, the conditions set out in column 3 for the product concerned must be fulfilled instead of the rule in paragraph 1.

- (a) Where in the list in Annex II a percentage rule is applied in determining the originating status of a product obtained in an ACP State, the value added by the working or processing shall correspond to the ex-works price of the product obtained, less the customs value of third-country materials imported into the Community, the ACP States or the OCT.
- (b) The term "value" in the list in Annex II shall mean the customs value at the time of the import of the non-originating materials used or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials in the territory concerned.

Where the value of the originating materials used needs to be established, the first subparagraph of (b) shall be applied "*mutatis mutandis*".

- (c) The term "ex-works price" in the list in Annex II shall mean the price paid for the product obtained to the manufacturer in whose undertaking the last working or processing is carried out, provided the price includes the value of all the materials used in manufacture, minus any internal taxes which are, or may be repaid when the product obtained is exported.
- (d) "Customs value" shall be understood as meaning the customs value laid down in the Convention concerning the valuation of goods for customs purposes signed in Brussels on 15 December 1950<sup>1</sup>.

<sup>1</sup> Treaty Series No. 49 (1954) Cmd. 9233.

3. For the purpose of implementing paragraphs 1 and 2 the following shall be considered as insufficient working or processing to confer the status of originating products, whether or not there is a change of heading:

- (a) operations to ensure the preservation of products in good condition during transport and storage (ventilation, spreading out, drying, chilling, placing in salt, sulphur dioxide or other aqueous solutions, removal of damaged parts, and like operations);
- (b) simple operations consisting of removal of dust, sifting or screening, sorting, classifying, matching (including the making-up of sets of articles, washing, painting, cutting-up);
- (c) (i) changes of packaging and breaking up and assembly of consignments;  
(ii) simple placing in bottles, flasks, bags, cases, boxes, fixing on cards or boards etc., and all other simple packaging operations;
- (d) affixing marks, labels and other like distinguishing signs on products or their packaging;
- (e) (i) simple mixing of products of the same kind where one or more components of the mixture do not meet the conditions laid down in this Protocol to enable them to be considered as originating either in an ACP State, in the Community or in the OCT;  
(ii) simple mixing of products of different kinds unless one or more components of the mixture meet the conditions laid down in this Protocol to enable them to be considered as originating either in an ACP State, in the Community, or in the OCT and provided that such components contribute in determining the essential characteristics of the finished product;
- (f) simple assembly of parts of articles to constitute a complete article;
- (g) a combination of two or more operations specified in subparagraphs (a) to (f);
- (h) slaughter of animals.

#### ARTICLE 4

##### **Neutral elements**

In order to determine whether goods originate in an ACP State, the Community or one of the OCT, it shall not be necessary to establish whether the electrical power, fuel, plant and equipment and machines and tools used to obtain such goods or whether any materials or products used in the course of production which do not enter and which were not intended to enter into the final composition of the goods originate in third countries or not.

#### ARTICLE 5

##### **Value tolerance**

Notwithstanding the provisions of Article 3(1) and (2), non-originating materials may be used in the manufacture of a given product, provided their total value does not exceed 10 per cent of ex-works price of the final product and subject to the conditions laid down in Note 4.4 in Annex I.

#### ARTICLE 6

##### **Cumulation**

1. For the purpose of implementing this Title, the ACP States shall be considered as being one territory.
2. When products wholly obtained in the Community or in the OCT undergo working or processing in the ACP States, they shall be considered as having been wholly obtained in the ACP States.
3. Working and processing carried out in the Community or in the OCT shall be considered as having been carried out in the ACP States, when the materials undergo working or processing in the ACP States.
4. Paragraphs 2 and 3 apply to any working or processing carried out in the ACP States, including the operations listed in Article 3(3).

## ARTICLE 7

### Allocation of origin

Originating products made up of materials wholly obtained or sufficiently processed in two or more ACP States shall be considered as products originating in the ACP State where the last working or processing took place, provided this working or processing exceeded the insufficient operations listed in Article 3(3)(a), (b), (c) and (d) or a combination thereof.

## ARTICLE 8

### Accessories, spare parts and tools

Accessories, spare parts and tools dispatched with a piece of equipment, machine, apparatus or vehicle which are part of the normal equipment and included in the price thereof or are not separately invoiced are regarded as one with the piece of equipment, machine, apparatus or vehicle in question.

## ARTICLE 9

### Sets

Sets, as defined in General Rule 3 of the Harmonized System, shall be regarded as originating when all component articles are originating products. Nevertheless, when a set is composed of originating and non-originating articles, the set as a whole shall be regarded as originating provided that the value of the non-originating articles does not exceed 15% of ex-works price of the set.

## ARTICLE 10

### Direct transport

1. The preferential treatment provided for under the trade co-operation provisions of the Convention applies only to products or materials which are transported between the territory of the ACP States, of the Community or of the OCT without entering any other territory. However, goods constituting one single consignment may be transported through territory other than that of the ACP States or the Community or the OCT, with, should the occasion arise, transshipment or temporary warehousing in such territory, provided that the goods have remained under the surveillance of the customs authorities in the country of transit or of warehousing and that they have not undergone operations other than unloading, reloading or any operation designed to preserve them in good condition.

2. Evidence that the conditions referred to in paragraph 1 have been fulfilled shall be supplied to the responsible customs authorities by the production of:

- (a) a through bill of lading issued in the exporting beneficiary country covering the passage through the country of transit;
- (b) or a certificate issued by the customs authorities of the country of transit:
  - giving an exact description of the goods,
  - stating the dates of unloading and reloading of the goods or of their embarkation or disembarkation, identifying the ships used,
  - certifying the conditions under which the goods remained in the transit country;
- (c) or failing these, any substantiating documents.

## ARTICLE 11

### Territorial requirement

The conditions set out in this Title relative to the acquisition of originating status must be fulfilled without interruption in the Community, the ACP States or the OCT.

If originating goods exported from the Community, the ACP States or the OCT to another country are returned, they must be considered as non-originating unless it can be demonstrated to the satisfaction of the customs authorities that:

- the goods returned are the same goods as those exported, and
- they have not undergone any operation beyond that necessary to preserve them in good condition while in that country or while being exported.

## TITLE II

### Proof of Origin

#### ARTICLE 12

##### Movement certificate EUR. 1

1. Evidence of originating status of products, within the meaning of this Protocol, shall be given by a movement certificate EUR. 1 a specimen of which appears in Annex IV to this Protocol.
2. A movement certificate EUR. 1 may be issued only where it can serve as the documentary evidence required for the purpose of implementing the Convention.
3. A movement certificate EUR. 1 shall be issued only on application having been made in writing by the exporter. Such application shall be made on a form, a specimen of which appears in Annex IV to this Protocol, which shall be completed in accordance with this Protocol.

Applications for movement certificates EUR. 1 must be preserved for at least three years by customs authorities of the exporting country.

4. Under the responsibility of the exporter, he or his authorized representative shall request the issue of a movement certificate EUR. 1.
5. The exporter or his representative shall submit with his request any appropriate supporting document proving that the products to be exported are such as to qualify for the issue of a movement certificate EUR. 1.
6. The movement certificate EUR. 1 shall be issued by the customs authorities of the exporting ACP State, if the goods can be considered "originating products" within the meaning of this Protocol.
7. For the purpose of verifying whether the conditions stated in paragraph 6 have been met, the customs authorities shall have the right to call for any documentary evidence or to carry out any check which they consider appropriate.
8. It shall be the responsibility of the customs authorities of the exporting State to ensure that the forms referred to in paragraph 1 are duly completed. In particular, they shall check whether the space reserved for the description of the products has been completed in such a manner as to exclude all possibility of fraudulent additions. To this end, the description of the products must be indicated without leaving any blank lines. Where the space is not completely filled a horizontal line must be drawn below the last line of the description, the empty space being crossed through.
9. The date of issue of the movement certificate must be indicated in the part of the certificate reserved for the customs authorities.
10. A movement certificate EUR. 1 shall be issued by the customs authorities of the exporting ACP State when the products to which it relates are exported. It shall be made available to the exporter as soon as actual export has been effected or ensured.

#### ARTICLE 13

##### Issue of EUR. 1 retrospectively

1. In exceptional circumstances a movement certificate EUR. 1 may also be issued after export of the products to which it relates if it was not issued at the time of export because of errors or involuntary omissions or special circumstances.
2. For the implementation of paragraph 1, the exporter must in the application:
  - indicate the place and date of export of the products to which the certificate relates,
  - certify that no movement certificate EUR. 1 was issued at the time of export of the products in question, and state the reasons.

3. The customs authorities may issue a movement certificate EUR. 1 retrospectively only after verifying that the information supplied in the exporter's application agrees with that in the corresponding file.

Certificates issued retrospectively must be endorsed with one of the following phrases:

"EXPEDIDO A POSTERIORI",	"UDSTEDT EFTERFØLGENDE",
"NACHTRÄGLICH AUSGESTELLT",	"ΕΚΔΟΘΕΝ ΕΚ ΤΩΝ ΥΣΤΕΡΩΝ",
"ISSUED RETROSPECTIVELY",	"DELIVRE A POSTERIORI",
"RILASCIATO A POSTERIORI",	"AFGEGEVEN A POSTERIORI",
"EMITIDO A POSTERIORI".	

#### ARTICLE 14

##### Issue of a duplicate EUR. 1

In the event of the theft, loss or destruction of a movement certificate EUR. 1, the exporter may apply to the customs authorities which issued it for a duplicate made out on the basis of the export documents in their possession.

The duplicate issued in this way must be endorsed with one of the following words:

"DUPLICADO",	"DUPLIKAT",	"DUPLIKAT",
"ΑΝΤΙΓΡΑΦΟ",	"DUPLICATE",	"DUPLICATA",
"DUPLICATO",	"DUPLICAAT",	"SEGUNDA VIA".

#### ARTICLE 15

##### Replacement of certificates

It shall at any time be possible to replace one or more movement certificates EUR. 1 by one or more other movement certificates EUR. 1 provided that this is done at the customs office where the goods are located.

#### ARTICLE 16

##### Validity of movement certificates EUR. 1

1. A movement certificate EUR. 1 must be submitted, within 10 months of the date of issue by the customs authorities of the exporting ACP State, to the customs authorities of the importing State where the products are entered.

2. A movement certificate EUR. 1 which is submitted to the customs authorities of the importing State after the final date of presentation specified in paragraph 1 may be accepted for the purpose of applying preferential treatment, where the failure to submit the certificate by the final date set is due to reasons of *force majeure* or exceptional circumstances.

3. In other cases of belated presentation, the customs authorities of the importing State may accept the certificates where the products have been submitted to them before the said final date.

#### ARTICLE 17

##### Transit procedure

When the products enter an ACP State or OCT other than the country of origin, a further period of validity of 10 months shall commence on the date on which the customs authorities in the country of transit enter the following in box 7 of the certificate EUR. 1:

- the word "transit",
- the name of the country of transit,
- the official stamp, a specimen of which had been made available to the Commission, in conformity with Article 25,
- the date of the endorsements.

## ARTICLE 18

### Exhibitions

1. Products sent from an ACP State for exhibition in a country other than an ACP State, a Member State or an OCT and sold after the exhibition for importation into the Community shall benefit on importation from the provisions of the Convention on condition that the products meet the requirements of this Protocol entitling them to be recognized as originating in an ACP State and provided that it is shown to the satisfaction of the customs authorities of the importing State that:

- (a) an exporter has consigned these products from an ACP State to the country in which the exhibition is held and has exhibited them there;
- (b) the products have been sold or otherwise disposed of by that exporter to someone in the Community;
- (c) the products have been consigned during the exhibition or immediately thereafter to the Community in the state in which they were sent for exhibition;
- (d) the products have not, since they were consigned for exhibition, been used for any purpose other than demonstration at the exhibition.

2. A movement certificate EUR. 1 must be produced to the customs authorities in the normal manner. The name and address of the exhibition must be indicated thereon. Where necessary, additional documentary evidence of the nature of the products and the conditions under which they have been exhibited may be required.

3. Paragraph 1 shall apply to any trade, industrial, agricultural or crafts exhibition, fair or similar public show or display which is not organized for private purposes in shops or business premises with a view to the sale of foreign products, and during which the products remain under customs control.

## ARTICLE 19

### Submission of certificates

Movement certificates EUR. 1 shall be submitted to customs authorities in the importing State, in accordance with the procedures laid down by that State. The said authorities may require a translation of a certificate. They may also require the import declaration to be accompanied by a statement from the importer to the effect that the products meet the conditions required for the implementation of the Convention.

## ARTICLE 20

### Importation by instalments

Where, at the request of the person declaring the goods at the customs, a dismantled or non-assembled article falling within Chapter 84 or 85 of the Harmonized System is imported by instalments on the conditions laid down by the competent authorities, it shall be considered to be a single article and a movement certificate may be submitted for the whole article upon import of the first instalment.

## ARTICLE 21

### Form EUR. 2

1. Notwithstanding Article 12 the evidence of originating status, within the meaning of this Protocol, of products which form the subject of postal consignments (including parcels), provided that they consist only of originating products and that the value does not exceed ECU 2 820 per consignment, is given by a form EUR. 2 of which a specimen appears in Annex V to this Protocol, which shall be completed by the exporter.

2. Up to and including 30 April 1991 the ecu to be used in any given national currency of a Member State of the Community shall be the equivalent in that national currency of the ecu as at 1 October 1988. For each successive period of two years it shall be the equivalent in that national currency of the ecu as at the first working day in October in the year immediately preceding that two-year period.

3. Revised amounts replacing the amounts expressed in ecus above and in Article 22(2) may be introduced by the Community at the beginning of any successive two-year period if necessary and shall be notified by the Community to the Customs Co-operation Committee not later than one month before they shall come into force. These amounts shall be, in any event, such as to ensure that the value of the limits as expressed in the currency of any Member State shall not decline.

4. If the products are invoiced in the currency of another member State of the Community, the importing State shall recognize the amount notified by the State concerned.

5. A form EUR. 2 shall be completed for each postal consignment. After completing and signing the form, the exporter shall, in the case of consignments by parcel post, attach the form to the dispatch note. In the case of consignment by letter post, the exporter shall insert the form inside the package.

6. These provisions do not exempt exporters from complying with any other formalities required by customs or postal regulations.

## ARTICLE 22

### **Exemptions from proof of origin**

1. Products sent as small packages to private persons or forming part of travellers' personal luggage shall be admitted as originating products without requiring the production of a movement certificate EUR. 1 or the completion of form EUR. 2, provided that such products are not imported by way of trade and have been declared as meeting the conditions required for the application of these provisions, and where there is no doubt as to the veracity of such declaration.

2. Imports which are occasional and consist solely of products for the personal use of the recipients or travellers or their families shall not be considered as imports by way of trade if it is evident from the nature and quantity of the products that no commercial purpose is in view.

Furthermore, the total value of these products must not exceed ECU 200 in the case of small packages or ECU 565 in the case of the contents of travellers' personal luggage.

## ARTICLE 23

### **Information procedure for cumulation purposes**

1. When Article 6 is applied, for the issue of a movement certificate EUR. 1 the competent customs office in the ACP State requested to issue the certificate for products in the manufacture of which materials coming from other ACP States, the Community or the OCT are used, shall take into consideration the declaration, a specimen of which appears in Annex VI A or B, given by the exporter in the State or OCT from which it came, either on the commercial invoice applicable to these materials, or on a supporting document to that invoice.

2. A separate supplier's declaration shall be given by the supplier for each consignment of materials on the commercial invoice related to that shipment or in an annex to that invoice, or on a delivery note or other commercial document related to that shipment which describes the materials concerned in sufficient detail to enable them to be identified.

3. For materials having obtained preferential originating status, the suppliers' declarations shall be given in the form prescribed in Annex VI A.

4. For materials which have undergone working or processing in the ACP States, the OCT or the Community without having obtained preferential originating status, the suppliers' declarations shall be given in the form prescribed in Annex VI B.

5. The supplier's declaration may be made out on a pre-printed form.



6. The suppliers' declarations shall be signed in manuscript. However, where the invoice and the supplier's declaration are established using electronic data-processing methods, the supplier's declaration need not be signed in manuscript provided the responsible official in the supplying company is identified to the satisfaction of the customs authorities in the State where the suppliers' declarations are established. The said customs authorities may lay down conditions for the implementation of this paragraph.

7. Suppliers' declarations made and information certificates issued before the date of entry into force of this Protocol in accordance with Articles 20 and 21 of Protocol 1 to the third ACP-EEC Convention shall remain valid.

#### ARTICLE 24

##### **Discrepancies**

The discovery of slight discrepancies between the statements made in the movement certificate EUR. 1, in the form EUR. 2 or in the layout of the supplier's declaration referred to in Article 23 and those made in the documents submitted to the customs office for the purpose of carrying out the formalities for importing the materials shall not *ipso facto* render the document null and void if it is duly established that movement certificate EUR. 1, the form EUR. 2 or the suppliers' declaration does correspond to the goods submitted.

#### TITLE III

##### **Methods of Administrative Co-operation**

#### ARTICLE 25

##### **Communication of stamps**

The ACP States shall send to the Commission specimens of the stamps used together with the addresses of the customs authorities competent to issue movement certificates EUR. 1 and carry out the subsequent verification of movement certificates EUR. 1 and forms EUR. 2.

Movement certificates EUR. 1 and forms EUR. 2 shall be accepted for the purpose of applying preferential treatment from the date the information is received by the Commission.

The Commission shall send this information to the customs authorities of the Member States.

Movement certificates EUR. 1 and forms EUR. 2 presented to the customs authorities of the importing State before this date shall be accepted in conformity with the Community legislation.

#### ARTICLE 26

##### **Verification of movement certificates EUR. 1 and of forms EUR. 2**

1. Subsequent verification of movement certificates EUR. 1 and of forms EUR. 2 shall be carried out at random or whenever the customs authorities of the importing State have reasonable doubts as to the authenticity of the document or the accuracy of the information regarding the true origin of the products in question.

2. In order to ensure the proper application of this Protocol, the Member States, the OCT and the ACP States shall assist each other, through their respective customs administrations, in checking the authenticity of movement certificates EUR. 1 and the accuracy of the information concerning the actual origin of the products concerned and the declarations by exporters on forms EUR. 2 and the authenticity and accuracy of the information certificates referred to in Article 27(2).

The authorities consulted shall furnish the relevant information concerning the conditions under which the product has been made, indicating especially the conditions in which the rules of origin have been respected in the various ACP States, Member States or OCT concerned.

3. If the customs authorities of the importing State decide to suspend execution of the provisions of the Convention while awaiting the results of the verification, they shall offer to release the products to the importer subject to any precautionary measures judged necessary.

4. For the purpose of implementing paragraph 1, the customs authorities of the importing State shall return the movement certificate EUR. 1 or form EUR. 2, or a photo copy thereof, to the customs authorities of the exporting State, giving, where appropriate, the reasons of form or substance for an inquiry. The relevant commercial documents, or a copy thereof, shall be attached to the certificate EUR. 1 or form EUR. 2 and the customs authorities shall forward any information that has been obtained suggesting that the particulars given on the said certificate or the said form are inaccurate.

5. The customs authorities of the importing State shall be informed of the results of the verification within six months. These results must be such as to make it possible to determine whether the disputed movement certificate EUR. 1 or form EUR. 2 applied to the products actually exported, and whether these products can, in fact, qualify for the application of the preferential arrangements.

6. Where the verification procedure or any other available information appears to indicate that the provisions of this Protocol are being contravened, the ACP State on its own initiative or at the request of the Community shall carry out appropriate enquiries or arrange for such enquiries to be carried out with due urgency to identify and prevent such contraventions and for this purpose the ACP State concerned may invite the participation of the Community in these enquiries.

Where the verification procedure or any other available information appears to indicate that the provisions of this Protocol are being contravened, the products would be accepted as originating products under Protocol 1 only after the completion of such aspects of administrative co-operation set down in the Protocol which may have been activated, including in particular the verification procedure.

7. Disputes which cannot be settled between the customs authorities of the importing State and those of the exporting State, or those which raise a question as to the interpretation of this Protocol, shall be submitted to the Customs Co-operation Committee provided for in Article 30.

8. In all cases, the settlement of disputes between the importer and the customs authorities of the importing State shall be under the legislation of the said State.

#### ARTICLE 27

##### **Verification of suppliers' declarations**

1. Verification of suppliers' declarations may be carried out at random or whenever the customs authorities of the importing State have reasonable doubts as to the authenticity of the document or the accuracy or completeness of the information concerning the true origin of the materials in question.

2. The customs authorities to which a supplier's declaration is submitted may request the customs authorities of the State where the declaration was made to issue an information certificate, a specimen of which appears in Annex VII to this Protocol. Alternatively, the customs authorities to which a supplier's declaration is submitted may request the exporter to produce an information certificate issued by the customs authorities of the State where the declaration was made.

A copy of the information certificate shall be preserved by the office which has issued it for at least two years.

3. The requesting customs authorities shall be informed of the results of the verification as soon as possible. The results must be such as to indicate positively whether the declaration concerning the status of the materials is correct.
4. For the purpose of verification, suppliers shall keep for not less than two years a copy of the document containing the declaration together with all necessary evidence showing the true status of the materials.
5. The customs authorities in the State where the supplier's declaration is established shall have the right to call for any evidence or to carry out any check which they consider appropriate in order to verify the correctness of any supplier's declaration.
6. Any movement certificate EUR. 1 or form EUR. 2 issued or made out on the basis of an incorrect supplier's declaration shall be considered null and void.
7. The procedure laid down in Article 26(7) shall apply in case of any disputes concerning suppliers' declarations or information certificates.

#### ARTICLE 28

##### **Penalties**

Penalties shall be imposed on any person who, in order to enable products to be accepted as eligible for preferential treatment, draws up or causes to be drawn up either a document which contains incorrect particulars for the purpose of obtaining a movement certificate EUR. 1 or a form EUR. 2 containing incorrect particulars.

#### ARTICLE 29

##### **Free zones**

The ACP States shall take all necessary steps to ensure that goods traded under cover of a movement certificate EUR. 1 or of a supplier's declaration and which in the course of transport use a free zone situated in their territory are not replaced by other goods and that they do not undergo handling other than operations designed to preserve them in good condition.

#### ARTICLE 30

##### **Customs Co-operation Committee**

1. A Customs Co-operation Committee, hereinafter referred to as "the Committee", shall be set up and charged with carrying out administrative co-operation with a view to the correct and uniform application of this Protocol and with carrying out any other task in the customs field which may be entrusted to it.
2. The Committee shall examine regularly the effect on the ACP States and in particular on the least-developed ACP States of application of the rules of origin and shall recommend to the Council of Ministers appropriate measures.
3. The Committee shall take decisions on derogations from this Protocol, under the conditions laid down in Article 31.
4. The Committee shall meet regularly, in particular to prepare the decisions of the Council of Ministers pursuant to Article 34.
5. The Committee shall be composed on the one hand of experts from the Member States and of Commission officials responsible for customs questions, and on the other hand of experts representing the ACP States and of officials of regional groupings of the ACP States who are responsible for customs questions. The Committee may call upon appropriate expertise where necessary.

## ARTICLE 31

### Derogations

1. Derogations from this Protocol may be adopted by the Committee where the development of existing industries or the creation of new industries justifies them.

The ACP State or States concerned shall, either before or when the ACP States submit the matter to the Committee, notify the Community of its request for a derogation together with the reasons for the request in accordance with paragraph 2.

The Community shall respond positively to all the ACP requests which are duly justified in conformity with this Article and which cannot cause serious injury to an established Community industry.

2. In order to facilitate the examination by the Committee of requests for derogation, the ACP State making the request shall, by means of the form given in Annex IX to this Protocol, furnish in support of its request the fullest possible information covering in particular the points listed below:

- description of the finished product,
- nature and quantity of materials originating in a third country,
- nature and quantity of materials originating in ACP States, the Community or the OCT, or which have been processed there,
- manufacturing processes,
- value added,
- number of employees in the enterprise concerned,
- anticipated volume of exports to the Community,
- other possible sources of supply for raw materials,
- reasons for the duration requested in the light of efforts made to find new sources of supply,
- other observations.

The same rules shall apply to any requests for extension.

The Committee may modify the form.

3. The examination of requests shall in particular take into account:

- (a) the level of development or the geographical situation of the ACP State or States concerned;
- (b) cases where the application of the existing rules of origin would significantly affect the ability of an existing industry in an ACP State to continue its exports to the Community, with particular reference to cases where this could lead to cessation of its activities;
- (c) specific cases where it can be clearly demonstrated that significant investment in an industry could be deterred by the rules of origin and where a derogation favouring the realization of the investment programme would enable these rules to be satisfied by stages.

4. In every case an examination shall be made to ascertain whether the rules relating to cumulation of origin do not provide a solution to the problem.

5. In addition when a request for derogation concerns a least-developed or an island ACP State, its examination shall be carried out with a favourable bias having particular regard to:

- (a) the economic and social impact of the decision to be taken especially in respect of employment;
- (b) the need to apply the derogation for a period taking into account the particular situation of the ACP State concerned and its difficulties.

6. In the examination of requests, special account shall be taken, case by case, of the possibility of conferring origination status on products which include in their composition materials originating in neighbouring developing countries, least-developed countries or developing countries with which one or more ACP States have special relations, provided that satisfactory administrative co-operation can be established.

7. Without prejudice to paragraphs 1 to 6, the derogation shall be granted where the value added to the non-originating products used in the ACP State or States concerned is at least 45% of the value of the finished product, provided that the derogation is not such as to cause serious injury to an economic sector of the Community or of one or more Member States.

8. Derogations shall be automatically granted to requests concerning canned tuna, within an annual quota of 1 500 tonnes in the period from the coming into force of the Convention to 31 December 1992, and of 2 500 tonnes per year from 1 January 1993.

Applications for such derogations shall be submitted by the ACP States in accordance with the above mentioned quota to the Committee, which shall put them into force by means of a decision. Above this quota the procedure set out in paragraphs 1 to 7 applies.

9. The Committee shall take steps necessary to ensure that a decision is reached as quickly as possible, and in any case not later than 60 working days after the request is received by the EEC Co-Chairman of the Committee. If the Community does not inform the ACP States of its position on the request within this period, the request shall be deemed to have been accepted. In the event of a decision not being taken by the Committee, the Committee of Ambassadors shall be called upon to decide within one month of the date on which the matter is referred to it.

10. (a) The derogation shall be valid for a period, generally of five years, to be determined by the Committee.

(b) The derogation decision may provide for renewals without a new decision of the Committee being necessary, provided that the ACP State or States concerned submit, three months before the end of each period, proof that they are still unable to meet the conditions of this Protocol which have been derogated from.

If any objection is made to the extension, the Committee shall examine it as soon as possible and decide whether to prolong the derogation. The Committee shall proceed as provided for in paragraph 9. All necessary measures shall be taken to avoid interruptions in the application of the derogation.

(c) In the periods referred to in subparagraphs (a) and (b), the Committee may review the terms for implementing the derogation should a significant change be found to have taken place in the substantive factors governing the decision to grant the derogation. On conclusion of its review the Committee may decide to amend the terms of its decision as regards the scope of the derogation or any other condition previously laid down.

#### TITLE IV

#### Canary Islands, Ceuta and Melilla

#### ARTICLE 32

#### Special conditions

1. The term "Community" used in this Protocol shall not cover the Canary Islands, Ceuta and Melilla. The term "products originating in the Community" shall not cover products originating in the Canary Islands, Ceuta and Melilla.

2. The provisions of this Protocol shall apply *mutatis mutandis* in determining whether products may be deemed as originating in the ACP States when imported into the Canary Islands, Ceuta and Melilla.

3. Where products wholly obtained in the Canary Islands, Ceuta, Melilla, the OCT or the Community undergo working and processing in the ACP States, they shall be considered as having been wholly obtained in the ACP States.

4. Working or processing carried out in the Canary Islands, Ceuta, Melilla, the OCT or the Community shall be considered as having been carried out in the ACP States, when materials undergo further working or processing in the ACP States.
5. For the purpose of implementing paragraphs 3 and 4, the insufficient operations listed in Article 3(3)(a), (b), (c), and (d) shall not be considered as working or processing.
6. The Canary Islands, Ceuta and Melilla shall be considered as a single territory.

## TITLE V

### Final provisions

#### ARTICLE 33

##### **Petroleum products**

The products set out in Annex VIII shall be temporarily excluded from the scope of this Protocol. Nevertheless, the arrangements regarding administrative co-operation shall apply, *mutatis mutandis*, to these products.

#### ARTICLE 34

##### **Revision of rules of origin**

In accordance with Article 176 of the Convention, the Council of Ministers shall examine annually, or whenever the ACP States or the Community so request, the application of the provisions of this Protocol and their economic effects with a view to making any necessary amendments or adaptations.

The Council of Ministers shall take into account among other elements the effects on the rules of origin of technological developments.

The decisions taken shall be implemented as soon as possible.

#### ARTICLE 35

##### **Requests for derogations**

The Contracting Parties undertake to examine in an appropriate institutional framework, from the date of the signature of the Convention, any applications for derogations from this Protocol, with a view to allowing them to enter into force at the same date as the Convention.

#### ARTICLE 36

##### **Annexes**

The Annexes to this Protocol shall form an integral part thereof.

#### ARTICLE 37

##### **Implementation of the Protocol**

The Community and the ACP States shall each take the steps necessary to implement this Protocol.

## ANNEX I

### Notes

#### **Foreword**

These notes shall apply where appropriate to all products manufactured using non-originating materials even if they are not subject to specific conditions contained in the list in Annex II but are subject instead to the change of heading rule set out in Article 3(1).

#### *Note 1:*

1.1. The first two columns in the list describe the product obtained. The first column gives the heading number or chapter number used in the Harmonized System and the second column gives the description of goods used in that system for that heading or chapter. For each entry in the first two columns a rule is specified in column 3. Where, in some cases, the entry in the first column is preceded by an "ex", this signifies that the rule in column 3 applies only to the part of that heading or chapter as described in column 2.

1.2. Where several heading numbers are grouped together in column 1 or a chapter number is given and the description of products in column 2 is therefore given in general terms, the adjacent rule in column 3 applies to all products which, under the Harmonized System, are classified in headings of the chapter or in any of the headings grouped together in column 1.

1.3. Where there are different rules in the list applying to different products within a heading, each indent contains the description of that part of the heading covered by the adjacent rule in column 3.

#### *Note 2:*

2.1. The term "manufacture" covers any kind of working or processing including "assembly" or specific operations. However, see Note 3.5 below.

2.2. The term "material" covers any "ingredient", "raw material", "component" or "part", etc., used in the manufacture of the product.

2.3. The term "product" refers to the product being manufactured, even if it is intended for later use in another manufacturing operation.

2.4. The term "goods" covers both "materials" and "products".

#### *Note 3:*

3.1. In the case of any heading not in the list or any part of a heading that is not in the list, the "change of heading" rule set out in Article 3(1) applies. If a "change of heading" condition applies to any entry in the list, then it is contained in the rule in column 3.

3.2. The working or processing required by a rule in column 3 has to be carried out only in relation to the non-originating materials used. The restrictions contained in a rule in column 3 likewise apply only to the non-originating materials used.

3.3. Where a rule states that "materials of any heading" may be used, materials of the same heading as the product may also be used, subject, however, to any specific limitations which may also be contained in the rule. However, the expression "manufacture from materials of any heading, including other materials of heading No. ..." means that only materials classified in the same heading as the product of a different description than that of the product as given in column 2 of the list may be used.

3.4. If a product made from non-originating materials which has acquired originating status during manufacture by virtue of the change of heading rule or its own list rule is used as a material in the process of manufacture of another product, then the rule applicable to the product in which it is incorporated does not apply to it.

For example,<sup>1</sup> an engine of heading No. 8407, for which the rule states that the value of the non-originating materials which may be incorporated may not exceed 40% of the ex works price, is made from "other alloy steel roughly shaped by forging" of heading No. 7224.

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<sup>1</sup> This example is given for the purpose of explanation only. It is not legally binding.

If this forging has been forged in the country concerned from a non-originating ingot then the forging has already acquired origin by virtue of the rule for heading No. ex 7224 in the list. It can then count as originating in the value calculation for the engine regardless of whether it was produced in the same factory or another. The value of the non-originating ingot is thus not taken into account when adding up the value of the non-originating materials used.

3.5. Even if the change of heading rule or the other rules contained in the list are satisfied, a product shall not acquire originating status if the processing carried out, taken as a whole, is insufficient within the meaning of Article 3(3).

3.6. The unit of qualification for the application of the origin rules shall be the particular product which is considered as the basic unit when determining classification using the Nomenclature of the Harmonized System. In the case of sets of products which are classified by virtue of Rule 3 of the General Rules for the interpretation of the Harmonized System, the unit of qualification shall be determined in respect of each item in the set in the case of headings Nos. 6308, 8206 and 9605.

Accordingly, it follows that:

- when a product composed of a group or assembly of articles is classified under the terms of the Harmonized System in a single heading, the whole constitutes the unit of qualification;
- when a consignment consists of a number of identical products classified under the same heading of the Harmonized System, each product must be taken individually when applying the origin rules;
- where, under general rule 5 of the Harmonized System, packing is included with the product for classification purposes, it shall be included for the purposes of determining origin.

*Note 4:*

4.1. The rule in the list represents the minimum amount of working or processing required and the carrying out of more working or processing also confers originating status; conversely, the carrying out of less working or processing cannot confer origin. Thus if a rule says that non-originating material at a certain level of manufacture may be used, the use of such material at an earlier stage of manufacture is allowed and the use of such material at a later stage is not.

4.2. When a rule in the list specifies that a product may be manufactured from more than one material, this means that any one or more materials may be used. It does not require that all be used.

For example,<sup>1</sup> the rule for fabrics says that natural fibres may be used and that chemical materials, among other materials, may also be used. This does not mean that both have to be used; one can use one or the other or both.

If, however, a restriction applies to one material and other restrictions apply to other materials in the same rule, then the restrictions only apply to the materials actually used.

For example,<sup>1</sup> the rule for sewing machines specifies that both the thread tension mechanism used and the zigzag mechanism used must originate; these two restrictions only apply if the mechanisms concerned are actually incorporated into the sewing machine.

4.3. When a rule in the list specifies that a product must be manufactured from a particular material, the condition obviously does not prevent the use of other materials which, because of their inherent nature, cannot satisfy the rule.

For example,<sup>1</sup> the rule for heading No. 1904 which specifically excludes the use of cereals or their derivatives does not prevent the use of mineral salts, chemicals and other additives which are not produced from cereals.

For example,<sup>1</sup> in the case of an article made from non-woven materials, if the use of only non-originating yarn is allowed for this class of article, it is not possible to start from non-woven cloth—even if non-woven cloths cannot normally be made from yarn. In such cases, the starting material would normally be at the stage before yarn—that is the fibre stage.

See also Note 7.3 in relation to textiles.

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<sup>1</sup> This example is given for the purpose of explanation only. It is not legally binding.



4.4. If in a rule in the list two or more percentages are given for the maximum value of non-originating materials that can be used, then these percentages may not be added together. The maximum value of all the non-originating materials used may never exceed the highest of the percentages given. Furthermore, the individual percentages must not be exceeded in relation to the particular materials they apply to.

This note also applies to the value tolerance provided for in Article 5.

*Note 5:*

5.1. The term "natural fibres" is used in the list to refer to fibres other than artificial or synthetic fibres and is restricted to the stages before spinning takes place, including waste, and, unless otherwise specified, the term "natural fibres" includes fibres that have been carded, combed or otherwise processed but not spun.

5.2. The term "natural fibres" includes horsehair of heading No. 0503, silk of headings No. 5002 and No. 5003 as well as the wool fibres, fine or coarse animal hair of headings Nos. 5101 to 5105, the cotton fibres of headings Nos. 5201 to 5203 and the other vegetable fibres of headings Nos. 5301 to 5305.

5.3. The terms "textile pulp", "chemical materials" and "paper-making materials" are used in the list to describe the materials not classified in chapters 50 to 63, which can be used to manufacture artificial, synthetic or paper fibres or yarns.

5.4. The term "man-made staple fibres" is used in the list to refer to synthetic or artificial filament tow, staple fibres or waste, of headings Nos. 5501 to 5507.

*Note 6:*

6.1. In the case of the products classified in those headings in the list to which a reference is made to this Note, the conditions set out in column 3 of the list shall not be applied to any basic textile materials used in their manufacture which, taken together, represent 10% or less of the total weight of all the basic textile materials used (but see also Notes 6.3 and 6.4 below).

6.2. However, this tolerance may only be applied to mixed products which have been made from two or more basic textile materials.

The following are the basic textile materials:

- silk,
  - wool,
  - coarse animal hair,
  - fine animal hair,
  - horsehair,
  - cotton,
  - paper-making materials and paper,
  - flax,
  - true hemp,
  - jute and other textile bast fibres,
  - sisal and other textile fibres of the genus *Agave*,
  - coconut, abaca, ramie and other vegetable textile fibres,
  - synthetic man-made filaments,
  - artificial man-made filaments,
  - synthetic man-made staple fibres,
  - artificial man-made staple fibres.
- For example,<sup>1</sup> a yarn of heading No. 5205 made from cotton fibres of heading No. 5203 and synthetic staple fibres of heading No. 5506 is a mixed yarn. Therefore, non-originating synthetic staple fibres that do not satisfy the origin rules (which require the use of non-originating chemical materials) may be used up to a weight of 10% of the yarn.
- For example,<sup>1</sup> a woollen fabric of heading No. 5112 made from woollen yarn of heading No. 5107 and synthetic yarn of staple fibres of heading No. 5509 is a mixed fabric. Therefore, non-originating synthetic yarn that does not satisfy the

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<sup>1</sup> This example is given for the purpose of explanation only. It is not legally binding.

origin rules (which require the use of non-originating man-made staple fibres not carded or combed or otherwise prepared for spinning), or non-originating woollen yarn that does not satisfy the origin rules (which require the use of non-originating natural fibres), or a combination of the two may be used up to a weight of 10% of the fabric.

—For example,<sup>1</sup> tufted textile fabric of heading No. 5802 made from cotton yarn of heading No. 5205 and cotton fabric of heading No. 5210 is only a mixed product if the cotton fabric is itself a mixed fabric being made from yarns classified in two separate headings or if the cotton yarns used are themselves mixtures.

—For example,<sup>1</sup> if the tufted textile fabric concerned had been made from cotton yarn of heading No. 5205 and synthetic fabric of heading No. 5407, then, obviously, the yarns used are two separate basic textile materials and the tufted textile fabric is accordingly a mixed product.

—For example,<sup>1</sup> a carpet with tufts made both from artificial yarns and tufts made from cotton yarns and with a jute backing is a mixed product because three basic textile materials are used. Thus, any non-originating materials that are at a later stage of manufacture than the rule allows may be used, provided their total weight taken together does not exceed 10% of the weight of the carpet. Thus, both the jute backing and/or the artificial yarns could be imported at that stage of manufacture, provided the weight conditions are met.

6.3. In the case of fabrics incorporating “yarn made of polyurethane segmented with flexible segments of polyether whether or not gimped” this tolerance is 20% in respect of this yarn.

6.4. In the case of fabrics incorporating strip consisting of a core of aluminium foil or of a core of plastic film whether or not coated with aluminium powder, of a width not exceeding 5 mm, sandwiched by means of an adhesive between two films of plastic film, this tolerance is 30% in respect of this strip.

*Note 7:*

7.1. In the case of those textile products, which are marked in the list by a footnote referring to this Introductory Note, textile trimmings and accessories which do not satisfy the rule set out in the list in column 3 for the made up products concerned may be used provided that their weight does not exceed 10% of the total weight of all the textile materials incorporated.

Textile trimmings and accessories are those classified in Chapters 50 to 63. Linings and interlinings are not to be regarded as trimmings or accessories.

7.2. Any non-textile trimmings and accessories or other materials used which contain textiles do not have to satisfy the conditions set out in column 3 even though they fall outside the scope of Note 4.3.

7.3. In accordance with Note 4.3, any non-originating non-textile trimmings and accessories or other product, which do not contain any textiles, may, anyway, be used freely where they cannot be made from the materials listed in column 3.

—For example,<sup>1</sup> if a rule in the list says that for a particular textile item, such as a blouse, yarn must be used, this does not prevent the use of metal items, such as buttons, because they cannot be made from textile materials.

7.4. Where a percentage rule applies, the value of trimmings and accessories must be taken into account when calculating the value of the non-originating materials incorporated.

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<sup>1</sup> This example is given for the purpose of explanation only. It is not legally binding.

ANNEX II

List of working or processing required to be carried out on non-originating materials in order that the product manufactured can obtain originating status

HS Heading No	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
0201	Meat of bovine animals, fresh or chilled	Manufacture from materials of any heading except meat of bovine animals, frozen of heading No. 0202
0202	Meat of bovine animals, frozen	Manufacture from materials of any heading except meat of bovine animals, fresh or chilled of heading No. 0201
0206	Edible offal of bovine animals, swine, sheep, goats, horses, asses, mules or hinnies, fresh, chilled or frozen	Manufacture from materials of any heading except carcasses of headings Nos. 0201 to 0205
0210	Meat and edible meat offal, salted, in brine, dried or smoked; edible flours and meals of meat or meat offal	Manufacture from materials of any heading except meat and offal of heading Nos. 0201 to 0206 and 0208 or poultry liver of heading No. 0207
0302 to 0305	Fish, other than live fish	Manufacture in which all the materials of Chapter 3 used must already be originating
0402, 0404 to 0406	Dairy products	Manufacture from materials of any heading except milk or cream of heading No. 0401 or 0402
0403	Buttermilk, curdled milk and cream, yogurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit or cocoa	Manufacture in which: —all the materials of Chapter 4 used must already be originating, —any fruit juice (except those of pineapple, lime or grapefruit) of heading No. 2009 used must be originating, and —the value of any materials of Chapter 17 used does not exceed 30% of the ex-works price of the product
0408	Birds' eggs, not in shell and egg yolks, fresh, dried, cooked, by steaming or by boiling in water, moulded, frozen or otherwise preserved, whether or not containing added sugar or other sweetening matter	Manufacture from materials of any heading except birds' eggs of heading No. 0407
ex 0502	Prepared pigs', hogs' or boars' bristles and hair	Cleaning, disinfecting, sorting and straightening of bristles and hair
ex 0506	Bones and horn-cores unworked.	Manufacture in which all the materials of Chapter 2 used must already be originating
0710 to 0713	Edible vegetables, frozen or dried, provisionally preserved except for heading Nos. ex 0710 and ex 0711	Manufacture in which all the vegetable materials used must already be originating
ex 0710	Sweet corn (uncooked or cooked by steaming or boiling in water), frozen	Manufacture from fresh or chilled sweet corn
ex 0711	Sweet corn, provisionally preserved	Manufacture from fresh or chilled sweet corn
0811	Fruit and nuts, uncooked or cooked by steaming or boiling in water, frozen, whether or not containing added sugar or other sweetening matter: —Containing added sugar  —Other	Manufacture in which the value of any materials of Chapter 17 used does not exceed 30% of the value of the ex-works price of the product  Manufacture in which all the fruit or nuts used must already be originating

HS Heading No	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
0812	Fruit and nuts provisionally preserved (for example, by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption	Manufacture in which all the fruit or nuts used must already be originating
0813	Fruit, dried, other than that of heading Nos. 0801 to 0806; mixtures of nuts or dried fruits of this chapter	Manufacture in which all the fruit or nuts used must already be originating
0814	Peel of citrus fruit or melons (including water-melons), fresh, frozen, dried or provisionally preserved in brine, in sulphur water or in other preservative solutions	Manufacture in which all the fruit or nuts used must already be originating
ex Chapter 11	Products of the milling industry; malt, starches; inulin; wheat gluten, except for heading No. ex 1106	Manufacture in which all the cereals, edible vegetables, roots and tubers of heading No. 0714 or fruit used must already be originating
ex 1106	Flour and meal of the dried, shelled leguminous vegetables of heading No. 0713	Drying and milling of leguminous vegetables of heading No. 0708
1301	Lac; natural gums, resins, gum-resins and balsams	Manufacture in which the value of any materials of heading No. 1301 used may not exceed 50% of the ex-works price of the product
1501	Lard; other pig fat and poultry fat, rendered, whether or not pressed or solvent-extracted: —Fats from bones or waste.  —Other	Manufacture from materials of any heading except those of heading Nos. 0203, 0206 or 0207 or bones of heading No. 0506 Manufacture from meat or edible offal of swine of heading Nos. 0203 or 0206 or of meat and edible offal of poultry of heading No. 0207
1502	Fats of bovine animals, sheep or goats, raw or rendered, whether or not pressed or solvent-extracted: —Fats from bones or waste  —Other	Manufacture from materials of any heading except those of heading Nos. 0201, 0202, 0204 or 0206 or bones of heading No. 0506 Manufacture in which all the animal materials of Chapter 2 used must already be originating
1504	Fats and oils and their fractions, of fish or marine mammals, whether or not refined, but not chemically modified: —Solid fractions of fish oils and fats and oils of marine mammals —Other	Manufacture from materials of any heading including other materials of heading No. 1504 Manufacture in which all the animal materials of Chapters 2 and 3 used must already be originating
ex 1505	Refined lanolin	Manufacture from crude wool grease of heading No. 1505
1506	Other animal fats and oils and their fractions, whether or not refined, but not chemically modified: —Solid fractions  —Other	Manufacture from materials of any heading including other materials of heading No. 1506 Manufacture in which all the animal materials of Chapter 2 used must already be originating

HS Heading No	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
ex 1507 to 1515	Fixed vegetable oils and their fractions, whether or not refined, but not chemically modified: —Solid fractions, except for that of Jôjoba oil —Other, except for: —Tung oil, myrtle wax and Japan wax —Those for technical or industrial uses other than the manufacture of foodstuffs for human consumption	Manufacture from other materials of heading Nos. 1507 to 1515 Manufacture in which all the vegetable materials used must already be originating
ex 1516	Animal or vegetable fats and oils and their fractions, re-esterified, whether or not refined but not further prepared	Manufacture in which all the animal and vegetable materials used must already be originating
ex 1517	Edible liquid mixtures of vegetable oils of heading Nos. 1507 to 1515	Manufacture in which all the vegetable materials used must already be originating
ex 1519	Industrial fatty alcohols having the character of artificial waxes	Manufacture from materials of any heading including fatty acids of heading No. 1519
1601	Sausages and similar products, of meat, meat offal or blood; food preparations based on these products	Manufacture from animals of Chapter 1
1602	Other prepared or preserved meat, meat offal or blood	Manufacture from animals of Chapter 1
1603	Extracts and juices of meat, fish or crustaceans, molluscs or other aquatic invertebrates	Manufacture from animals of Chapter 1. However, all fish, crustaceans, molluscs or other aquatic invertebrates used must already be originating
1604	Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs	Manufacture in which all the fish or fish eggs used must already be originating
1605	Crustaceans, molluscs and other aquatic invertebrates, prepared or preserved	Manufacture in which all the crustaceans, molluscs or other aquatic invertebrates used must already be originating
ex 1701	Cane or beet sugar and chemically pure sucrose, in solid form, flavoured or coloured	Manufacture in which the value of any materials of Chapter 17 used does not exceed 30% of the ex-works price of the product
1702	Other sugars, including chemically pure lactose, maltose, glucose and fructose, in solid form; sugar syrups not containing added flavouring or colouring matter; artificial honey, whether or not mixed with natural honey; caramel: —Chemically pure maltose and fructose —Other sugars in solid form, flavoured or coloured —Other	Manufacture from materials of any heading including other materials of heading No. 1702 Manufacture in which the value of any materials of Chapter 17 used does not exceed 30% of the ex-works price of the product Manufacture in which all the materials used must already be originating
ex 1703	Molasses resulting from the extraction or refining of sugar, flavoured or coloured	Manufacture in which the value of any materials of Chapter 17 used does not exceed 30% of the ex-works price of the product
1704	Sugar confectionery (including white chocolate), not containing cocoa	Manufacture in which all the materials used are classified in a heading other than that of the product, provided the value of any materials of Chapter 17 used does not exceed 30% of the ex-works price of the product
1806	Chocolate and other food preparations containing cocoa	Manufacture in which all the materials used are classified in a heading other than that of the product, provided the value of any materials of Chapter 17 used does not exceed 30% of the ex-works price of the product

HS Heading No	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
1901	<p>Malt extract; food preparations of flour, meal, starch or malt extract, not containing cocoa powder or containing cocoa powder in a proportion by weight of less than 50%, not elsewhere specified or included; food preparations of goods of heading Nos. 0401 to 0404, not containing cocoa powder or containing cocoa powder in a proportion by weight of less than 10%, not elsewhere specified or included:</p> <p>—Malt extract —Other</p>	<p>Manufacture from cereals of Chapter 10 Manufacture in which all the materials used are classified in a heading other than that of the product, provided the value of any materials of Chapter 17 used does not exceed 30% of the ex-works price of the product</p>
1902	<p>Pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli, cannelloni, couscous, whether or not prepared</p>	<p>Manufacture in which all the cereals (except durum wheat), meat, meat offal, fish, crustaceans or molluscs used must already be originating</p>
1903	<p>Tapioca and substitutes therefor prepared from starch, in the form of flakes, grains, pearls, siftings or in similar forms</p>	<p>Manufacture from materials of any heading except potato starch heading No. 1108</p>
1904	<p>Prepared foods obtained by the swelling or roasting of cereals or cereal products (for example, corn flakes); cereals, other than maize (corn), in grain form, pre-cooked or otherwise prepared:</p> <p>—Not containing cocoa</p> <p>Containing cocoa</p>	<p>Manufacture in which:</p> <p>—all the cereals and flour (except maize of the species <i>Zea indurata</i> and durum wheat and their derivatives) used must be wholly obtained, and</p> <p>—the value of any materials of Chapter 17 used does not exceed 30% of the ex-works price of the product</p> <p>Manufacture from materials not classified in heading No. 1806, provided the value of any materials of Chapter 17 used does not exceed 30% of the ex-works price of the product</p>
1905	<p>Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products</p>	<p>Manufacture from materials of any heading, except those of Chapter 11</p>
2001	<p>Vegetables, fruit nuts and other edible parts of plants, prepared or preserved by vinegar or acetic acid</p>	<p>Manufacture in which all the fruit, nuts or vegetables used must already be originating</p>
2002	<p>Tomatoes prepared or preserved otherwise than by vinegar or acetic acid</p>	<p>Manufacture in which all the tomatoes used must already be originating</p>
2003	<p>Mushrooms and truffles, prepared or preserved otherwise than by vinegar or acetic acid</p>	<p>Manufacture in which all the mushrooms or truffles used must already be originating</p>
2004 and 2005	<p>Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, frozen or not frozen</p>	<p>Manufacture in which all the vegetables used must already be originating</p>
2006	<p>Fruits, nuts, fruit-peel and other parts of plants, preserved by sugar (drained, glacé or crystallized)</p>	<p>Manufacture in which the value of any materials of Chapter 17 used does not exceed 30% of the ex-works price of the product</p>
2007	<p>Jams, fruit jellies, marmalades, fruit or nut purée and fruit or nut pastes, being cooked preparations, whether or not containing added sugar or other sweetening matter</p>	<p>Manufacture in which the value of any materials of Chapter 17 used must not exceed 30% of the ex-works price of the product</p>

HS Heading No	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
2008	Fruit, nuts and other edible parts of plants otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included: —Fruit and nuts cooked otherwise than by steaming or boiling in water, not containing added sugar, frozen —Nuts, not containing added sugar or spirits  —Other	Manufacture in which all the fruit and nuts used must already be originating  Manufacture in which the value of the originating nuts and oil seeds of heading Nos. 0801, 0802 and 1202 to 1207 used exceeds 60% of the ex-works price of the product  Manufacture in which all the materials used are classified in a heading other than that of the product, provided the value of any materials of Chapter 17 used does not exceed 30% of the ex-works price of the product
ex 2009	Fruit juices (including grape must), unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter	Manufacture in which all the materials used are classified in a heading other than that of the product, provided the value of any materials of Chapter 17 used does not exceed 30% of the ex-works price of the product
ex 2101	Roasted chicory and extracts, essences and concentrates thereof	Manufacture in which all the chicory used must already be originating
ex 2103	—Sauces and preparations therefor, mixed condiments and mixed seasonings  —Prepared mustard	Manufacture in which all the materials used are classified in a heading other than that of the product. However, mustard flour or meal or prepared mustard may be used  Manufacture from mustard flour or meal
ex 2104	—Soups and broths and preparations therefor  —Homogenized composite food preparations	Manufacture from materials of any heading, except prepared or preserved vegetables of heading Nos. 2002 to 2005  The rule for the heading in which the product would be classified in bulk shall apply
ex 2106	Sugar syrups, flavoured or coloured	Manufacture in which the value of any materials of Chapter 17 used must not exceed 30% of the ex-works price of the product
2201	Waters, including natural or artificial mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavoured; ice and snow	Manufacture in which all the water used must already be originating
2202	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit or vegetable juices of heading No. 2009	Manufacture in which all the materials used are classified in a heading other than that of the product, provided the value of any materials of Chapter 17 used does not exceed 30% of the ex-works price of the product and any fruit juice used (except for pineapple, lime and grapefruit juices) must already be originating
ex 2204	Wine of fresh grapes, including fortified wines, and grape must with the addition of alcohol	Manufacture from other grape must
2205, ex 2207, ex 2208 and ex 2209	The following, containing grape materials: vermouth and other wine of fresh grapes flavoured with plants or aromatic substances, ethyl alcohol and other spirits, denatured or not; spirits, liqueurs and other spirituous beverages, compound alcoholic preparations of a kind used for the manufacture of beverages; vinegar	Manufacture from materials of any heading, except grapes or any material derived from grapes
ex 2208	Whiskies of an alcoholic strength by volume of less than 50% vol	Manufacture in which the value of any cereal based spirits used does not exceed 15% of the ex-works price of the product

HS Heading No	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
ex 2303	Residues from the manufacture of starch from maize (excluding concentrated steeping liquors), of a protein content, calculated on the dry product, exceeding 40% by weight	Manufacture in which all the maize used must already be originating
ex 2306	Oil cake and other solid residues resulting from the extraction of olive oil, containing more than 3% of olive oil	Manufacture in which all the olives used must already be originating
2309	Preparations of a kind used in animal feeding	Manufacture in which all the cereals, sugar or molasses, must or milk used must already be originating
2402	Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes	Manufacture in which at least 70% by weight of the unmanufactured tobacco or tobacco refuse of heading No. 2401 used must already be originating
ex 2403	Smoking tobacco	Manufacture in which at least 70% by weight of the unmanufactured tobacco or tobacco refuse of heading No. 2401 used must already be originating
ex 2504	Natural crystalline graphite, with enriched carbon content, purified and ground	Enriching of the carbon content, purifying and grinding of crude crystalline graphite
ex 2515	Marble, merely cut by sawing or otherwise into blocks or slabs of a rectangular (including square) shape, of a thickness not exceeding 25 cm	Cutting, by sawing or otherwise, of marble (even if already sawn) of a thickness exceeding 25 cm
ex 2516	Granite porphyry, basalt, sandstone and other monumental and building stones, merely cut by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape, of a thickness not exceeding 25 cm	Cutting, by sawing or otherwise, of stone (even if already sawn) of a thickness exceeding 25 cm
ex 2518	Calcined dolomite	Calcination of dolomite not calcined
ex 2519	Crushed natural magnesium carbonate (magnesite), in hermetically sealed containers, and magnesium oxide, whether or not pure, other than fused magnesia or dead-burned (sintered) magnesia	Manufacture in which all the materials used are classified in a heading other than that of the product. However, natural magnesium carbonate (magnesite) may be used
ex 2520	Plasters specially prepared for dentistry	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
ex 2524	Natural asbestos fibres	Manufacture from asbestos concentrate
ex 2525	Mica powder	Grinding of mica or mica waste
ex 2530	Earth colours, calcined or powdered	Calcination or grinding of earth colours
ex 2707	Oils in which the weight of the aromatic constituents exceeds that of the non-aromatic constituents, being oils similar to mineral oils obtained by distillation of high temperature coal tar, of which more than 65% by volume distils at a temperature of up to 250°C (including mixtures of petroleum spirit and benzole), for use as power or heating fuels	These are Annex VIII products
2709 to 2715	Mineral oils and products of their distillation; bituminous substances; mineral waxes	These are Annex VIII products
ex Chapter 28	Inorganic chemicals; organic or inorganic compounds of precious metals, of rare earth metals, of radioactive elements or of isotopes; except for heading Nos. ex 2811 and ex 2833 for which the rules are set out below	Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 20% of the ex-works price of the product
ex 2811	Sulphur trioxide	Manufacture from sulphur dioxide
ex 2833	Aluminium sulphate	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product



HS Heading No	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
ex Chapter 29	Organic chemicals, except for heading Nos. ex 2901, ex 2902, ex 2905, 2915, ex 2932, 2933 and 2934, for which the position is set out below	Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 20% of the ex-works price of the product
ex 2901	Acyclic hydrocarbons for use as power or heating fuels	These are Annex VIII products
ex 2902	Cyclanes and cyclenes (other than azulenes), benzene, toluene, xylenes, for use as power or heating fuels	These are Annex VIII products
ex 2905	Metal alcoholates of alcohols of this heading and of ethanol or glycerol	Manufacture from materials of any heading, including other materials of heading No. 2905. However, metal alcoholates of this heading may be used, provided their value does not exceed 20% of the ex-works price of the product
2915	Saturated acyclic monocarboxylic acids and their anhydrides, halides, peroxides and peroxyacids; their halogenated, sulphonated, nitrated or nitrosated derivatives	Manufacture from materials of any heading. However, the value of all the materials of heading Nos. 2915 and 2916 used may not exceed 20% of the ex-works price of the product
ex 2932	—Internal ethers and their halogenated, sulphonated, nitrated or nitrosated derivatives	Manufacture from materials of any heading. However, the value of all the materials of heading No. 2909 used may not exceed 20% of the ex-works price of the product
ex 2932	—Cyclic acetals and internal hemiacetals and their halogenated, sulphonated, nitrated or nitrosated derivatives	Manufacture from materials of any heading
2933	Heterocyclic compounds with nitrogen heteroatom(s) only; nucleic acids and their salts:	Manufacture from materials of any heading. However, the value of all the materials of heading Nos. 2932 and 2933 used may not exceed 20% of the ex-works price of the product
2934	Other heterocyclic compounds	Manufacture from materials of any heading. However, the value of all the materials of heading Nos. 2832, 2933 and 2934 used may not exceed 20% of the ex-works price of the product
ex Chapter 30	Pharmaceutical products, except for heading Nos. 3002, 3003 and 3004, for which the rules are set out below	Manufacture in which all the materials used are classified within a heading other than that of the product. However materials classified within the same heading may be used provided their value does not exceed 20% of the ex-works price of the product
3002	Human blood, animal blood prepared for therapeutic, prophylactic or diagnostic uses; antisera and other blood fractions; vaccines, toxins, cultures of micro-organisms (excluding yeasts) and similar products: —Products consisting of two or more constituents which have been mixed together for therapeutic or prophylactic uses or unmixed products for these uses, put up in measured doses or in forms or packings for retail sale Other: —Human blood	Manufacture from materials of any heading, including other materials of heading No. 3002. The materials of this description may also be used, provided their value does not exceed 20% of the ex-works price of the product  Manufacture from materials of any heading, including other materials of heading No. 3002. The materials of this description may also be used, provided their value does not exceed 20% of the ex-works price of the product

HS Heading No	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
3003 and 3004	<p>—Animal blood prepared for therapeutic or prophylactic uses</p> <p>—Blood fractions other than antisera, haemoglobin and serum globulin</p> <p>—Haemoglobin, blood globulin and serum globulin</p> <p>—Other</p> <p>Medicaments (excluding goods of heading Nos. 3002, 3005 or 3006)</p>	<p>Manufacture from materials of any heading, including other materials of heading No. 3002. The materials of this description may also be used, provided their value does not exceed 20% of the ex-works price of the product</p> <p>Manufacture from materials of any heading, including other materials of heading No. 3002. The materials of this description may also be used, provided their value does not exceed 20% of the ex-works price of the product</p> <p>Manufacture from materials of any heading, including other materials of heading No. 3002. <i>The materials of this description may also be used, provided their value does not exceed 20% of the ex-works price of the product</i></p> <p>Manufacture from materials of any heading, including other materials of heading No. 3002. The materials of this description may also be used, provided their value does not exceed 20% of the ex-works price of the product</p> <p>Manufacture in which:</p> <ul style="list-style-type: none"> <li>—all the materials used are classified within a heading other than that of the product. However, materials of heading No. 3003 or 3004 may be used, provided their value, taken together, does not exceed 20% of the ex-works price of the product, and</li> <li>—the value of all the materials used does not exceed 50% of the ex-works price of the product</li> </ul>
ex Chapter 31	Fertilizers except for heading Nos. ex 3103 and ex 3105, for which the rules are set out below	Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 20% of the ex-works price of the product
ex 3103	Crushed and powdered calcined natural aluminium calcium phosphates	Crushing and powdering of calcined natural aluminium calcium phosphates
ex 3105	<p>Mineral or chemical fertilizers containing two or three of the fertilizing elements nitrogen, phosphorus and potassium; other fertilizers; goods of this chapter, in tablets or similar forms or in packages of a gross weight not exceeding 10 kg, except for:</p> <ul style="list-style-type: none"> <li>—Sodium nitrate</li> <li>—Calcium cyanamide</li> <li>—Potassium sulphate</li> <li>—Magnesium potassium sulphate</li> </ul>	<p>Manufacture in which:</p> <ul style="list-style-type: none"> <li>—all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 20% of the ex-works price of the product, and</li> <li>—the value of all the materials used does not exceed 50% of the ex-works price of the product</li> </ul>
ex Chapter 32	Tanning or dyeing extracts; tannins and their derivatives; dyes, pigments and other colouring matter; paints and varnishes; putty and other mastics; inks; except for heading Nos. ex 3201 and 3205, for which the rules are set out below	Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 20% of the ex-works price of the product
ex 3201	Tannins and their salts, ethers, esters and other derivatives	Manufacture from tanning extracts of vegetable origin
3205	Colour lakes; preparations as specified in note 3 to this chapter based on colour lakes <sup>1</sup>	Manufacture from materials of any heading, except heading Nos. 3202 and 3204 provided the value of any materials classified in heading No. 3205 does not exceed 20% of the ex-works price of the product

<sup>1</sup> Note 3 to Chapter 32 says that these preparations are those of a kind used for colouring any material or used as ingredients in the manufacturing of colouring preparations, provided they are not classified within another heading in Chapter 32.

HS Heading No	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
ex Chapter 33	Essential oils and resinoids; perfumery, cosmetic or toilet preparations; except for heading No. 3301, for which the rule is set out below	Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 20% of the ex-works price of the product
3301	Essential oils (terpeneless or not), including concretes and absolutes; resinoids; concentrates of essential oils in fats, in fixed oils, in waxes or the like, obtained by enfleurage or maceration; <i>terpeneic by-products of the deterpeneation of essential oils</i> ; aqueous distillates and aqueous solutions of essential oils	Manufacture from materials of any heading, including materials of a different "group" <sup>1</sup> within this heading. However, materials of the same group may be used, provided their value does not exceed 20% of the ex-works price of the product
ex Chapter 34	Soap, organic surface-active agents, washing preparations, lubricating preparations, artificial waxes, prepared waxes, polishing or scouring preparations, candles and similar articles, modelling pastes, "dental waxes" and dental preparations with a basis of plaster; except for heading Nos. ex 3403 and 3404, for which the position is set out below	Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 20% of the ex-works price of the product
ex 3403	Lubricating preparations containing petroleum oils or oils obtained from bituminous minerals, <i>provided they represent less than 70% by weight</i>	These are Annex VIII products
ex 3404	Artificial waxes and prepared waxes: —With a basis of paraffin, petroleum waxes, waxes obtained from bituminous minerals, slack wax or scale wax —Other	These are Annex VIII products  Manufacture from materials of any heading, except: —hydrogenated oils having the character of waxes of heading No. 1516 —fatty acids not chemically defined or industrial fatty alcohols having the character of waxes of heading No. 1519 —materials of heading No. 3404 <i>However, these materials may be used provided their value does not exceed 20% of the ex-works price of the product</i>
ex Chapter 35	Albuminoidal substances; modified starches; glues; enzymes; except for heading Nos. 3505 and ex 3507 for which the rules are set out below	Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 20% of the ex-works price of the product
3505	Dextrins and other modified starches (for example, pregelatinized or esterified starches); glues based on starches, or on dextrins or other modified starches: —Starch ethers and esters —Other	Manufacture from materials of any heading, including other materials of heading No. 3505 Manufacture from materials of any heading, except those of heading No. 1108
ex 3507	Prepared enzymes not elsewhere specified or included	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
Chapter 36	Explosives; pyrotechnic products; matches; pyrophoric alloys; certain combustible preparations	Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 20% of the ex-works price of the product

<sup>1</sup> A "group" is regarded as any part of the heading separated from the rest by a semi-colon.

HS Heading No	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
ex Chapter 37	Photographic or cinematographic goods; except for heading Nos. 3701, 3702 and 3704 for which the rules are set out below	Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 20% of the ex-works price of the product
3701	Photographic plates and film in the flat, sensitized, unexposed, of any material other than paper, paperboard or textiles; instant print film in the flat, sensitized, unexposed, whether or not in packs	Manufacture in which all the materials used are classified in a heading other than heading No. 3702
3702	Photographic film in rolls, sensitized, unexposed, of any material other than paper, paperboard or textiles; instant print film in rolls, sensitized, unexposed	Manufacture in which all the materials used are classified within a heading other than heading No. 3701 or 3702
3704	Photographic plates, film, paper, paperboard and textiles, exposed but not developed	Manufacture in which all the materials used are classified in a heading other than heading Nos. 3701 to 3704
ex Chapter 38	Miscellaneous chemical products; except for heading Nos. ex 3801, ex 3803, ex 3805, ex 3806, ex 3807, 3808 to 3814, 3818 to 3820, 3822 and 3823 for which the rules are set out below:	Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 20% of the ex-works price of the product
ex 3801	—Colloidal graphite in suspension in oil and semi-colloidal graphite; carbonaceous pastes for electrodes —Graphite in paste form, being a mixture of more than 30% by weight of graphite with mineral oils	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product Manufacture from materials of any heading. However, the value of the materials of heading No. 3403 used must not exceed 20% of the ex-works price of the product
ex 3803	Refined tall oil	Refining of crude tall oil
ex 3805	Spirits of sulphate turpentine, purified	Purification by distillation or refining of raw spirits of sulphate turpentine
ex 3806	Ester gums	Manufacture from resin acids
ex 3807	Wood pitch (wood tar pitch)	Distillation of wood tar
3808 to 3814	Miscellaneous chemical products:	
3818 to 3820	—Prepared additives for lubricating oil, containing petroleum oils or oils obtained from bituminous minerals, of heading No. 3811	These are Annex VIII products
3822 and 3823	—The following of heading No. 3823: —Prepared binders for foundry moulds or cores based on natural resinous products —Naphthenic acids, their water insoluble salts and their esters —Sorbitol other than that of heading No. 2905 —Petroleum sulphonates, excluding petroleum sulphonates of alkali metals, of ammonium or of ethanalamines; thiophenated sulphonic acids of oils obtained from bituminous minerals, and their salts —Ion exchangers —Getters for vacuum tubes —Alkaline iron oxide for the purification of gas	Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 20% of the ex-works price of the product
3808 to 3814	—Ammoniacal gas liquors and spent oxide produced in coal gas purification	

HS Heading No	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
3818 to 3820 3822 and 3823	<ul style="list-style-type: none"> <li>—Sulphonaphthenic acids, their water insoluble salts and their esters</li> <li>—Fusel oil and Dippel's oil</li> <li>—Mixtures of salts having different anions</li> <li>—Copying passes with a basis of gelatin, whether or not on a paper or textile backing</li> <li>—Other</li> </ul>	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
3901 to 3915	Plastics in primary forms, waste, parings and scrap, of plastic: <ul style="list-style-type: none"> <li>—Addition homopolymerization products</li> <li>—Other</li> </ul>	Manufacture in which: <ul style="list-style-type: none"> <li>—the value of all the materials used does not exceed 50% of the ex-works price of the product, and</li> <li>—the value of any materials of Chapter 39 used does not exceed 20% of the ex-works price of the product<sup>1</sup></li> </ul> Manufacture in which the value of all the materials of Chapter 39 used does not exceed 20% of the ex-works price of the product <sup>1</sup>
3916 to 3921	Semi-manufactures of plastics: <ul style="list-style-type: none"> <li>—Flat products, further worked than only surface-worked or cut into forms other than rectangles; other products, further worked than only surface-worked</li> <li>—Other:               <ul style="list-style-type: none"> <li>—Addition homopolymerization products</li> </ul> </li> <li>—Other</li> </ul>	Manufacture in which the value of all the materials of Chapter 39 used does not exceed 50% of the ex-works price of the product  Manufacture in which: <ul style="list-style-type: none"> <li>—the value of all the materials used does not exceed 50% of the ex-works price of the product, and</li> <li>—the value of any materials of Chapter 39 used does not exceed 20% of the ex-works price of the product<sup>1</sup></li> </ul> Manufacture in which the value of any materials of Chapter 39 used does not exceed 20% of the ex-works price of the product <sup>1</sup>
3922 to 3926	Articles of plastic	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
ex 4001 4005	Laminated slabs of crepe rubber for shoes Compounded rubber, unvulcanized, in primary forms or in plates, sheets or strip	Lamination of sheets of natural rubber Manufacture in which the value of any materials used, except natural rubber, does not exceed 50% of the ex-works price of the product
4012	Retreaded or used pneumatic tyres of rubber; solid or cushion tyres, interchangeable tyre treads and tyre flaps of rubber	Manufacture from materials of any heading, except those of heading Nos. 4011 or 4012
ex 4017	Articles of hard rubber	Manufacture from hard rubber
ex 4102	Raw skins of sheep or lambs, without wool on	Removal of wool from sheep or lamb skins, with wool on
4104 to 4107	Leather, without hair or wool other than leather of heading No. 4108 or 4109	Retanning of pre-tanned leather or Manufacture in which all the materials used are classified in a heading other than that of the product
4109	Patent leather and patent laminated leather; metallized leather	Manufacture from leather of heading Nos. 4104 to 4107 provided its value does not exceed 50% of the ex-works price of the product

<sup>1</sup> In the case of products composed of materials classified within both heading Nos. 3901 to 3906, on the one hand, and within heading Nos. 3907 to 3911, on the other hand, this restriction only applies to that group of materials which predominates by weight in the product.

HS Heading No	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
ex 4302	Tanned or dressed furskins, assembled: —Plates, crosses and similar forms  —Other	Bleaching or dyeing, in addition to cutting and assembly of non-assembled tanned or dressed furskins Manufacture from non-assembled, tanned or dressed furskins
4303	Articles of apparel, clothing accessories and other articles of fur skin	Manufacture from non-assembled, tanned or dressed furskins, of heading No. 4302
ex 4403	Wood roughly squared	Manufacture from wood in the rough whether or not stripped of its bark or merely roughed down
ex 4407	Wood sawn or chipped lengthwise, sliced or peeled, of a thickness exceeding 6mm, planed, sanded or finger-jointed	Planing, sanding or finger-jointing
ex 4408	Veneer sheets and sheets for plywood, of a thickness not exceeding 6mm, spliced, and other wood sawn lengthwise, sliced or peeled, of a thickness not exceeding 6mm, planed, sanded or finger-jointed	Splicing, planing, sanding or finger-jointing
ex 4409	—Wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rebated, chamfered, V-jointed, beaded, moulded, rounded or the like) along any of its edges or faces, sanded or finger-jointed —Beadings and mouldings	Sanding or finger-jointing  Beading or moulding
ex 4410 to ex 4413	Beadings and mouldings, including moulded skirting and other moulded boards	Beading or moulding
ex 4415	Packing cases, boxes, crates, drums and similar packings, of wood	Manufacture from boards not cut to size
ex 4416	Casks, barrels, vats, tubs and other coopers' products and parts thereof, of wood	Manufacture from riven staves, not further worked than sawn on the two principal surfaces
ex 4418	—Builders' joinery and carpentry of wood  —Beadings and mouldings	Manufacture in which all the materials used are classified within a heading other than that of the product. However, cellular wood panels, shingles and shales may be used  Beading or moulding
ex 4421	Match splints; wooden pegs or pins for footwear	Manufacture from wood of any heading except drawn wood of heading No. 4409
4503	Articles of natural cork	Manufacture from cork of heading No. 4501
ex 4811	Paper and paperboard, ruled, lined or squared only	Manufacture from paper-making materials of Chapter 47
4816	Carbon paper, self-copy paper and other copying or transfer papers (other than those of heading No. 4809), duplicator stencils and offset plates, of paper, whether or not put up in boxes	Manufacture from paper-making materials of Chapter 47
4817	Envelopes, letter cards, plain postcards and correspondence cards, of paper or paperboard; boxes, pouches, wallets and writing compendiums, of paper or paperboard, containing an assortment of paper stationery	Manufacture in which: —all the materials used are classified within a heading other than that of the product, and —the value of all the materials used does not exceed 50% of the ex-works price of the product
ex 4818	Toilet paper	Manufacture from paper-making materials of Chapter 47

HS Heading No	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
ex 4819	Cartons, boxes, cases, bags and other packing containers, of paper, paperboard, cellulose wadding or webs of cellulose fibres	Manufacture in which: —all the materials used are classified within a heading other than that of the product, and —the value of all the materials used does not exceed 50% of the ex-works price of the product
ex 4820	Letter pads	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
ex 4823	Other paper, paperboard, cellulose wadding and webs of cellulose fibres, cut to size or shape	Manufacture from paper-making materials of Chapter 47
4909	Printed or illustrated postcards; printed cards bearing personal greetings, messages or announcements, whether or not illustrated, with or without envelopes or trimmings	Manufacture from materials not classified within heading No. 4909 or 4911
4910	Calenders of any kind, printed, including calender blocks: —Calenders of the “perpetual” type or with replaceable blocks mounted on bases other than paper or paperboard  —Other	Manufacture in which: —all the materials used are classified within a heading other than that of the product, and —the value of all the materials used does not exceed 50% of the ex-works price of the product  Manufacture from materials not classified within heading No. 4909 or 4911
ex 5003	Silk waste (including cocoons unsuitable for reeling, yarn waste and garnetted stock), carded or combed	Carding or combing of silk waste
5501 to 5507	Man-made staple fibres	Manufacture from chemical materials or textile pulp
ex Chapter 50 to Chapter 55	Yarn, monofilament and thread	Manufacture from <sup>1</sup> —natural fibres not carded or combed or otherwise processed for spinning, —chemical materials or textile pulp, or —paper-making materials
ex Chapter 50 to Chapter 55	Woven fabrics:  —Incorporating rubber thread —Other	Manufacture from single yarn <sup>1</sup> Manufacture from <sup>1</sup> —coir yarn, —natural fibres, —man-made staple fibres not carded or combed or otherwise processed for spinning, —chemical materials or textile pulp, or —paper  or Printing accompanied by at least a finishing operation (such as scouring, bleaching, mercerizing, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling) where the value of the unprinted fabric used does not exceed 47.5% of the ex-works price of the product

<sup>1</sup>For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

HS Heading No	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
<p>ex Chapter 56</p> <p>5602</p> <p>5604</p> <p>5605</p> <p>5606</p>	<p>Wadding, felt and non-wovens; special yarns, twine cordage, ropes and cables and articles thereof except for heading Nos. 5602, 5604, 5605 and 5606, for which the rules are set out below</p> <p>Felt, whether or not impregnated, coated, covered or laminated: —Needleloom felt</p> <p>—Other</p> <p>Rubber thread and cord, textile covered; textile yarn, and strip and the like of heading No. 5404 or 5405, impregnated, coated, covered or sheathed with rubber or plastics: —Rubber thread and cord, textile covered</p> <p>—Other</p> <p>Metallized yarn, whether or not gimped, being textile yarn, or strip or the like of heading No. 5404 or 5405, combined with metal in the form of thread, strip or powder or covered with metal</p> <p>Gimped yarn, and strip and the like of heading No. 5404 or 5405, gimped (other than those of heading No. 5605 and gimped horsehair yarn); chenille yarn (including flock chenille yarn); loop wale-yarn</p>	<p>Manufacture from<sup>1</sup> —coir yarn, —natural fibres, —chemical materials or textile pulp, or —paper-making materials</p> <p>Manufacture from<sup>1</sup> —natural fibres, —chemical materials or textile pulp</p> <p>However: —polypropylene filament of heading No. 5402, —polypropylene fibres of heading No. 5503 or 5506,</p> <p>or —polypropylene filament tow of heading No. 5501, of which the denomination in all cases of a single filament or fibre is less than 9 decitex may be used provided that their value does not exceed 40% of the ex-works price of the product</p> <p>Manufacture from<sup>1</sup>: —natural fibres, —man-made staple fibres made from castein, or —chemical materials or textile pulp</p> <p>Manufacture from rubber thread or cord, not textile covered Manufacture from<sup>1</sup>: —natural fibres not carded or combed or otherwise processed for spinning, —chemical materials or textile pulp, or —paper-making materials</p> <p>Manufacture from<sup>1</sup>: —natural fibres, —man-made staple fibres not carded or combed or otherwise processed for spinning, —chemical materials or textile pulp, or —paper-making materials</p> <p>Manufacture from<sup>1</sup> —natural fibres, —man-made staple fibres not carded or combed or otherwise processed for spinning, —chemical materials or textile pulp, or —paper-making materials</p>
<p>Chapter 57</p>	<p>Carpets and other textile floor coverings: —Of needleloom felt</p>	<p>Manufacture from<sup>1</sup> —natural fibres, or —chemical materials or textile pulp.</p> <p>However: —polypropylene filament of heading No. 5402, —polypropylene fibres of heading No. 5503 or 5506.</p>

<sup>1</sup>For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.



HS Heading No	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
	<p>—Of other felt</p> <p>—Other</p>	<p>or</p> <p>—polypropylene filament tow of heading No. 5501 of which the denomination in all cases of a single filament or fibre is less than 9 decitex may be used provided that their value does not exceed 40% of the ex-works price of the product</p> <p>Manufacture from<sup>1</sup></p> <p>—natural fibres not carded or combed or otherwise processed for spinning, or</p> <p>—chemical materials or textile pulp</p> <p>Manufacture from<sup>1</sup>:</p> <p>—coir yarn,</p> <p>—synthetic or artificial filament yarn,</p> <p>—natural fibres, or</p> <p>—man-made staple fibres not carded or combed or otherwise processed for spinning</p>
ex Chapter 58	<p>Special woven fabrics; tufted textile fabrics; lace; tapestries; trimmings, embroidery, except for heading Nos. 5805 and 5810; the rule for heading No. 5810 is set out below:</p> <p>—Combined with rubber thread</p> <p>—Other</p>	<p>Manufacture from single yarn<sup>1</sup></p> <p>Manufacture from<sup>1</sup>:</p> <p>—natural fibres,</p> <p>—man-made staple fibres not carded or combed or otherwise processed for spinning, or</p> <p>—chemical materials or textile pulp</p> <p>or</p> <p>Printing accompanied by at least a finishing operation: (such as scouring, bleaching, mercerizing, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling) where the value of the unprinted fabric used does not exceed 47.5% of the ex-works price of the product</p>
5810	Embroidery in the piece, in strips or in motifs	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
5901	Textile fabrics coated with gum or amylaceous substances, of a kind used for the outer covers of books or the like; tracing cloth; prepared painting canvas; buckram and similar stiffened textile fabrics of a kind used for hat foundations	Manufacture from yarn
5902	<p>Tyre cord fabric of high tenacity yarn of nylon or other polyamides, polyesters or viscose rayon:</p> <p>—Containing not more than 90% by weight of textile materials</p> <p>—Other</p>	<p>Manufacture from yarn</p> <p>Manufacture from chemical materials or textile pulp</p>
5903	Textile fabrics impregnated, coated, covered or laminated with plastics, other than those of heading No. 5902	Manufacture from yarn
5904	Linoleum, whether or not cut to shape; floor coverings consisting of a coating or covering applied on a textile backing, whether or not cut to shape	Manufacture from yarn <sup>1</sup>

<sup>1</sup>For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

HS Heading No	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
5905	Textile wall coverings: —Impregnated, coated, covered or laminated with rubber, plastics or other materials —Other	Manufacture from yarn  Manufacture from <sup>1</sup> : —coir yarn, —natural fibres, —man-made staple fibres not carded or combed or otherwise processed for spinning, or —chemical materials or textile pulp or Printing accompanied by at least a finishing operation (such as scouring, bleaching, mercerizing, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling) where the value of the unprinted fabric used does not exceed 47.5% of the ex-works price of the product
5906	Rubberized textile fabrics, other than those of heading No. 5902: —Knitted or crocheted fabrics  —Other fabrics made of synthetic filament yarn, containing more than 90% by weight of textile materials —Other	Manufacture from <sup>1</sup> : —natural fibres, —man-made staple fibres not carded or combed or otherwise processed for spinning, or —chemical materials or textile pulp Manufacture from chemical materials
5907	Textile fabrics otherwise impregnated, coated or covered; painted canvas being theatrical scenery, studio backcloths or the like	Manufacture from yarn Manufacture from yarn
ex 5908	Incandescent gas mantles, impregnated	Manufacture from tubular knitted gas mantle fabric
5909 to 5911	Textile articles of a kind suitable for industrial use: —Polishing discs or rings other than of felt of heading No. 5911 —Other	Manufacture from yarn or waste fabrics or rags of heading No. 6310 Manufacture from <sup>1</sup> : —coir yarn, —natural fibres, —man-made staple fibres not carded or combed or otherwise processed for spinning, or —chemical materials or textile pulp
Chapter 60	Knitted or crocheted fabrics	Manufacture from <sup>1</sup> : —natural fibres, —man-made staple fibres not carded or combed or otherwise processed for spinning, or —chemical materials or textile pulp
Chapter 61	Articles of apparel and clothing accessories, knitted or crocheted: —Obtained by sewing together or otherwise assembling, two or more pieces of knitted or crocheted fabric which have been either cut to form or obtained directly to form —Other	Manufacture from yarn <sup>1</sup>  Manufacture from <sup>1</sup> : —natural fibres, —man-made staple fibres not carded or combed or otherwise processed for spinning, or —chemical materials or textile pulp

<sup>1</sup>For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

HS Heading No	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
ex Chapter 62	Articles of apparel and clothing accessories, not knitted or crocheted, except for heading Nos. ex 6202, ex 6204, ex 6206, ex 6209, ex 6210, 6213, 6214, ex 6216 and ex 6217 for which the rules are set out below	Manufacture from yarn <sup>1</sup>
ex 6202 ex 6204 ex 6206 ex 6209 and ex 6217	Women's, girls' and babies' clothing and "other made-up clothing accessories", embroidered	Manufacture from yarn <sup>1</sup> or Manufacture from unembroidered fabric provided the value of the unembroidered fabric used does not exceed 40% of the ex-works price of the product <sup>1</sup>
ex 6210 ex 6216 and ex 6217	Fire-resistant equipment of fabric covered with foil of aluminized polyester	Manufacture from yarn <sup>1</sup> or Manufacture from uncoated fabric provided the value of the uncoated fabric used does not exceed 40% of the ex-works price of the product <sup>1</sup>
6213 and 6214	Handkerchiefs, shawls, scarves, mufflers, mantillas, veils and the like:  —Embroidered   —Other	Manufacture from unbleached single yarn <sup>1,2</sup> or Manufacture from unembroidered fabric provided the value of the unembroidered fabric used does not exceed 40% of the ex-works price of the product <sup>1</sup> Manufacture from unbleached single yarn <sup>1,2</sup>
6301 to 6304	Blankets, travelling rugs, bed linen etc; curtains, etc.; other furnishing articles:  —Of felt, of non-wovens  —Other: —Embroidered   —Other	Manufacture from <sup>2</sup> : —natural fibres, or —chemical materials or textile pulp  Manufacture from unbleached single yarn <sup>2</sup> or Manufacture from unembroidered fabric (other than knitted or crocheted) provided the value of the unembroidered fabric used does not exceed 40% of the ex-works price of the product
6305	Sacks and bags, of a kind used for the packing of goods	Manufacture from unbleached single yarn <sup>2</sup> Manufacture from <sup>2</sup> : —natural fibres, —man-made staple fibres not carded or combed or otherwise processed for spinning, or —chemical materials or textile pulp
6306	Tarpaulins, sails for boats, sailboards or landcraft, awnings, sunblinds, tents and camping goods: —Of non-wovens  —Other	Manufacture from <sup>1</sup> : —natural fibres, or —chemical materials or textile pulp Manufacture from unbleached single yarn
6307	Other made-up articles, including dress patterns	Manufactures in which the value of all the materials used does not exceed 40% of the ex-works price of the product
6308	Sets consisting of woven fabric and yarn, whether or not with accessories, for making up into rugs, tapestries, embroidered table cloths or serviettes or similar textile articles, put up in packings for retail sale	Each item in the set must satisfy the rule which would apply to it if it were not included in the set. However, non-originating articles may be incorporated provided their total value does not exceed 15% of the ex-works price of the set

<sup>1</sup>See Introductory Note 7 for the treatment of textile trimmings and accessories.

<sup>2</sup>For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

HS Heading No	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
6401 to 6405	Footwear	Manufacture from materials of any heading except for assemblies of uppers affixed to inner soles or to other sole components of heading No. 6406
6503	Felt hats and other felt headgear, made from the hat bodies, hoods or plateaux of heading No. 6501, whether or not lined or trimmed	Manufacture from yarn or textile fibres <sup>1</sup>
6505	Hats and other headgear, knitted or crocheted, or made up from lace, felt or other textile fabric, in the piece (but not in strips), whether or not lined or trimmed; hair-nets of any material, whether or not lined or trimmed	Manufacture from yarn or textile fibres <sup>1</sup>
6601	Umbrellas and sun umbrellas (including walking-stick umbrellas, garden umbrellas and similar umbrellas)	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
ex 6803	Articles of slate or of agglomerated slate	Manufacture from worked slate
ex 6812	Articles of asbestos or of mixtures with a basis of asbestos or with a basis of asbestos and magnesium carbonate	Manufacture from fabricated asbestos fibres or from mixtures with a basis of asbestos or with a basis of asbestos and magnesium carbonate
ex 6814	Articles of mica; including agglomerated or reconstituted mica on a support of paper, paperboard or other materials	Manufacture from worked mica (including agglomerated or reconstituted mica)
7006	Glass of heading No. 7003, 7004 or 7005, bent, edge-worked, engraved, drilled, enamelled or otherwise worked, but not framed or fitted with other materials	Manufacture from materials of heading No. 7001
7007	Safety glass, consisting of toughened (tempered) or laminated glass	Manufacture from materials of heading No. 7001
7008	Multiple-walled insulating units of glass	Manufacture from materials of heading No. 7001
7009	Glass mirrors, whether or not framed, including rear-view mirrors	Manufacture from materials of heading No. 7001
7010	Carboys, bottles, flasks, jars, pots, phials, ampoules and other containers, of glass, of a kind used for the conveyance or packing of goods; preserving jars of glass; stoppers, lids and other closures, of glass	Manufacture in which all the materials used are classified within a heading other than that of the product or Cutting of glassware, provided the value of the uncut glassware does not exceed 50% of the ex-works price of the product
7013	Glassware of a kind used for table, kitchen, toilet, office, indoor decoration or similar purposes (other than that of heading No. 7010 or 7018)	Manufacture in which all the materials used are classified within a heading other than that of the product or Cutting of glassware, provided the value of the uncut glassware does not exceed 50% of the ex-works price of the product or Hand-decoration (with the exception of silk screen printing) of hand-blown glassware, provided the value of the hand-blown glassware does not exceed 50% of the ex-works price of the product
ex 7019	Articles (other than yarn) of glass fibres	Manufacture from: —uncoloured slivers, rovings, yarn or chopped strands, or —glass wool

<sup>1</sup>See Introductory Note 7 for the treatment of textile trimmings and accessories.

HS Heading No	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
ex 7102 ex 7103 and ex 7104	Worked precious or semi-precious stones (natural, synthetic or reconstructed)	Manufacture from unworked precious or semi-precious stones
7106 7108 and 7110	Precious metals: —Unwrought	Manufacture from materials not classified in heading No. 7106, 7108 or 7110 or Electrolytic, thermal or chemical separation of precious metals of heading No. 7106, 7108 or 7110 or Alloying of precious metals of heading No. 7106, 7108 or 7110 with each other or with base metals
	—Semi-manufactured or in powder form	Manufacture from unwrought precious metals
ex 7107 ex 7109 and ex 7111	Metals clad with precious metals, semi-manufactured	Manufacture from metals clad with precious metals, unwrought
7116	Articles of natural or cultured pearls, precious or semi-precious stones (natural, synthetic or reconstructed)	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
7117	Imitation jewellery	Manufacture in which all the the materials used are classified within a heading other than that of the product or Manufacture from base metal parts, not plated or covered with precious metals, provided the value of all the materials used does not exceed 50% of the ex-works price of the product
7207	Semi-finished products of iron or non-alloy steel	Manufacture from materials of heading No. 7201, 7202, 7203, 7204 or 7205
7208 to 7216	Flat-rolled products, bars and rods, angles, shapes and sections of iron or non-alloy steel	Manufacture from ingots or other primary forms of heading No. 7206
7217	Wire of iron or non-alloy steel	Manufacture from semi-finished materials of heading No. 7207
ex 7218 7219 to 7222	Semi-finished products, flat-rolled products, bars and rods, angles, shapes and sections of stainless steel	Manufacture from ingots or other primary forms of heading No. 7218
7223	Wire of stainless steel	Manufacture from semi-finished materials of heading No. 7218
ex 7224 7225 to 7227	Semi-finished products, flat-rolled products, bars and rods, in irregularly wound coils, of other alloy steel	Manufacture from ingots or other primary forms of heading No. 7224
7228	Other bars and rods of other alloy steel; angles, shapes and sections, of other alloy steel; hollow drill bars and rods, of alloy or non-alloy steel	Manufacture from ingots or other primary forms of heading No. 7206, 7218 or 7224
7229	Wire of other alloy steel	Manufacture from semi-finished materials of heading No. 7224
ex 7301	Sheet piling	Manufacture from materials of heading No. 7203
7302	Railway or tramway track construction material of iron or steel, the following: rails, check-rails and rack rails, switch blades, crossing frogs, point rods and other crossing pieces, sleepers (cross-ties), fish-plates, chairs, chair wedges, sole plates (base plates), rail clips, bedplates, ties and other material specialized for jointing or fixing rails	Manufacture from materials of heading No. 7206

HS Heading No	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
7304 7305 and 7306  7308	Tubes, pipes and hollow profiles, of iron (other than cast iron) or steel	Manufacture from materials of heading No. 7206, 7207, 7218 or 7224
ex 7315	Structures (excluding prefabricated buildings of heading No. 9406) and parts of structures (for example, bridges and bridge-sections, lock-gates, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, shutters, balustrades, pillars and columns), of iron or steel; plates, rods, angles, shapes, sections, tubes and the like, prepared for use in structures, of iron or steel	Manufacture in which all the materials used are classified within a heading other than that of the product. However, welded angles, shapes and sections of heading No. 7301 may not be used
ex 7322	Skid-chains	Manufacture in which the value of all the materials of heading No. 7315 used does not exceed 50% of the ex-works price of the product
ex 7322	Radiators for central heating, not electrically heated	Manufacture in which the value of all the materials of heading No. 7322 used does not exceed 5% of the ex-works price of the product
ex Chapter 74	Copper and articles thereof, except for heading Nos. 7401 to 7405; the rule for heading No. ex 7403 is set out below	Manufacture in which: —all the materials used are classified within a heading other than that of the product, and —the value of all the materials used does not exceed 30% of the ex-works price of the product
ex 7403	Copper alloys, unwrought	Manufacture from refined copper, unwrought, or waste and scrap
ex Chapter 75	Nickel and articles thereof, except for heading Nos. 7501 to 7503;	Manufacture in which: —all the materials used are classified within a heading other than that of the product, and —the value of all the materials used does not exceed 50% of the ex-works price of the product
ex Chapter 76	Aluminium and articles thereof, except for heading Nos. 7601 and 7602; the rule for heading No. ex 7601 is set out below	Manufacture in which —all the materials used are classified within a heading other than that of the product, and —the value of all the materials used does not exceed 50% of the ex-works price of the product
ex 7601	—Aluminium alloys  —“Super-pure” aluminium (ISO No. Al 99-99)	Manufacture from aluminium, not alloyed, or waste and scrap Manufacture from aluminium, not alloyed (ISO No. Al 99-8)
ex Chapter 78	Lead and articles thereof, except for heading Nos. 7801 and 7802; the rule for heading No. 7801 is set out below	Manufacture in which: —all the materials used are classified within a heading other than that of the product, and —the value of all the materials used does not exceed 50% of the ex-works price of the product

HS Heading No	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
7801	Unwrought lead: —Refined lead  —Other	Manufacture from "bullion" or "work" lead Manufacture in which all the materials used are classified in a heading other than that of the product. However, waste and scrap of heading No. 7802 may not be used
ex Chapter 79	Zinc and articles thereof, except for heading Nos. 7901 and 7902; the rule for rule heading No. 7901 is set out below	Manufacture in which: —all the materials used are classified in a heading other than that of the product, and —the value of all the materials used does not exceed 50% of the ex-works price of the product
7901	Unwrought zinc	Manufacture in which all the materials used are classified in a heading other than that of the product. However, waste and scrap of heading No. 7902 may not be used
ex Chapter 80	Tin and articles thereof, except for heading Nos. 8001, 8002 and 8007; the rule for heading No. 8001 is set out below	Manufacture in which: —all the materials used are classified in a heading other than that of the product, and —the value of all the materials used does not exceed 50% of the ex-works price of the product
8001	Unwrought tin	Manufacture in which all the materials used are classified in a heading other than that of the product. However, waste and scrap of heading No. 8002 may not be used
ex Chapter 81	Other base metals, wrought; articles thereof	Manufacture in which the value of all the materials classified in the same heading as the products used does not exceed 50% of the ex-works price of the product
8206	Tools of two or more of the heading Nos. 8202 to 8205, put up in sets for retail sale	Manufacture in which all the materials used are classified in a heading other than heading Nos. 8202 to 8205. However, tools of heading Nos. 8202 to 8205 may be incorporated into the set provided their value does not exceed 15% of the ex-works price of the set
8207	Interchangeable tools for hand tools, whether or not power-operated, or for machine-tools (for example, for pressing, stamping, punching, tapping, threading, drilling, boring, broaching, milling, turning or screwdriving), including dies for drawing or extruding metal, and rock-drilling or earth-boring tools	Manufacture in which: —all the materials used are classified in a heading other than that of the product, and —the value of all the materials used does not exceed 40% of the ex-works price of the product
8208	Knives and cutting blades, for machines or for mechanical appliances	Manufacture in which: —all the materials used are classified in a heading other than that of the product, and —the value of all the materials used does not exceed 40% of the ex-works price of the product
ex 8211	Knives with cutting blades, serrated or not (including pruning knives), other than knives of heading No. 8208	Manufacture in which all the materials used are classified in a heading other than that of the product. However, knife blades and handles of base metal may be used

HS Heading No	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
8214	Other articles of cutlery (for example, hair clippers, butcher's or kitchen cleavers, choppers and mincing knives, paper knives); manicure or pedicure sets and instruments (including nail files)	Manufacture in which all the materials used are classified in a heading other than that of the product. However, handles of base metal may be used
8215	Spoons, forks, ladles, skimmers, cake-servers, fish-knives, butter-knives, sugar tongs and similar kitchen or tableware	Manufacture in which all the materials used are classified in a heading other than that of the product. However, handles of base metal may be used
ex 8306	Statuettes and other ornaments, of base metal	Manufacture in which all the materials used are classified in a heading other than that of the product. However, the other materials of heading No. 8306 may be used provided their value does not exceed 30% of the ex-works price of the product
ex Chapter 84	Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof; except for those falling within the following headings or parts of headings for which the rules are set out below: 8402, 8403, ex 8404, 8406 to 8409, 8411, 8412, ex 8413, ex 8414, 8415, 8418, ex 8419, 8420, 8423, 8425 to 8430, ex 8431, 8439, 8441, 8444 to 8447, ex 8448, 8452, 8456 to 8466, 8469 to 8472, 8480, 8482, 8484 and 8485	Manufacture: —in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and —where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 10% of the ex-works price of the product
8402	Steam or other vapour generating boilers (other than central heating hot water boilers capable also of producing low pressure steam); super heated water boilers	Manufacture: —in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and —where, within the above limit, the materials classified in the same heading as the product are only used up to a value of 10% of the ex-works price of the product
8403 and ex 8404	Central heating boilers, other than those of heading No. 8402, and auxiliary plant for central heating boilers	Manufacture in which all the materials used are classified in a heading other than heading No. 8403 or 8404. However, materials which are classified in heading No. 8403 or 8404 may be used provided their value, taken together, does not exceed 10% of the ex-works price of the product
8406	Steam turbines and other vapour turbines	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
8407	Spark-ignition reciprocating or rotary internal combustion piston engines	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
8408	Compression-ignition internal combustion piston engines (diesel or semi-diesel engines)	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
8409	Parts suitable for use solely or principally with the engines of heading No. 8407 or 8408	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
8411	Turbo-jets, turbo-propellers and other gas turbines	Manufacture: —in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and —where, within the above limit, the materials classified in the same heading as the product are only used up to a value of 10% of the ex-works price of the product
8412	Other engines and motors	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product



HS Heading No	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
ex 8413	Rotary positive displacement pumps	<p>Manufacture:</p> <ul style="list-style-type: none"> <li>—in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and</li> <li>—where, within the above limit, the materials classified in the same heading as the product are only used up to a value of 10% of the ex-works price of the product</li> </ul>
ex 8414	Industrial fans, blowers and the like	<p>Manufacture:</p> <ul style="list-style-type: none"> <li>—in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and</li> <li>—where, within the above limit, the materials classified in the same heading as the product are only used up to a value of 10% of the ex-works price of the product</li> </ul>
8415	Air conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity, including those machines in which the humidity cannot be separately regulated	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
8418	Refrigerators, freezers and other refrigerating or freezing equipment, electric or other heat pumps other than air conditioning machines of heading No. 8415	<p>Manufacture:</p> <ul style="list-style-type: none"> <li>—in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and</li> <li>—where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 10% of the ex-works price of the product, and</li> <li>—where the value of all the non-originating materials used does not exceed the value of the originating materials used</li> </ul>
ex 8419	Machines for the wood, paper pulp and paper board industries	<p>Manufacture:</p> <ul style="list-style-type: none"> <li>—in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and</li> <li>—where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 25% of the ex-works price of the product</li> </ul>
8420	Calendering or other rolling machines, other than for metals or glass, and cylinders therefor	<p>Manufacture:</p> <ul style="list-style-type: none"> <li>—in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and</li> <li>—where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 25% of the ex-works price of the product</li> </ul>
8423	Weighing machinery (excluding balances of a sensitivity of 5 cg or better), including weight operated counting or checking machines; weighing machine weights of all kinds	<p>Manufacture:</p> <ul style="list-style-type: none"> <li>—in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and</li> <li>—where, within the above limit, the materials classified in the same heading as the product are only used up to a value of 10% of the ex-works price of the product</li> </ul>

HS Heading No	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
8425 to 8428	Lifting, handling, loading or unloading machinery	<p>Manufacture:</p> <ul style="list-style-type: none"> <li>—in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and</li> <li>—where, within the above limit, the materials classified in heading No. 8431 are only used up to a value of 10% of the ex-works price of the product</li> </ul>
8429	<p>Self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, temping machines and road rollers:</p> <ul style="list-style-type: none"> <li>—Road rollers</li> <li>—Other</li> </ul>	<p>Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product</p> <p>Manufacture:</p> <ul style="list-style-type: none"> <li>—in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and</li> <li>—where, within the above limit, the value of the materials classified within heading No. 8431 are only used up to a value of 10% of the ex-works price of the product</li> </ul>
8430	Other moving, grading, levelling, scraping, excavating, temping, compacting, extracting or boring machinery, for earth, minerals or ores; pile-drivers and pile-extractors; snow-ploughs and snow-blowers	<p>Manufacture:</p> <ul style="list-style-type: none"> <li>—in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and</li> <li>—where, within the above limit, the value of the materials classified within heading No. 8431 are only used up to a value of 10% of the ex-works price of the product</li> </ul>
ex 8431	Parts for road rollers	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
8439	Machinery for making pulp of fibrous cellulosic material or for making or finishing paper or paper-board	<p>Manufacture:</p> <ul style="list-style-type: none"> <li>—in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and</li> <li>—where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 25% of the ex-works price of the product</li> </ul>
8441	Other machinery for making up paper pulp, paper or paperboard, including cutting machines of all kinds	<p>Manufacture:</p> <ul style="list-style-type: none"> <li>—in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and</li> <li>—where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 25% of the ex-works price of the product</li> </ul>
8444 to 8447	Machines of these headings for use in the textile industry	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
ex 8448	Auxiliary machinery for use with machines for heading Nos. 8444 and 8445	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
8452	<p>Sewing machines, other than book sewing machines of heading No. 8440; furniture, bases and covers specially designed for sewing machines; sewing machine needles:</p> <ul style="list-style-type: none"> <li>—Sewing machines (lock stitch only) with heads of a weight not exceeding 16 kg without motor or 17 kg with motor</li> </ul>	<p>Manufacture:</p> <ul style="list-style-type: none"> <li>—in which the value of all the materials used does not exceed 40% of the ex-works price of the product,</li> </ul>

HS Heading No	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
	—Other	—where the value of all of the non-originating materials used in assembling the head (without motor) does not exceed the value of the originating materials used, and —the thread tension, crochet and zigzag mechanisms used are already originating
8456 to 8466	Machine-tools and machines and their parts and accessories of heading Nos. 8456 to 8466	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
8469 to 8472	Office machines (for example, typewriters, calculating machines, automatic data-processing machines, duplicating machines, stapling machines)	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
8480	Moulding boxes for metal foundry; mould bases; moulding patterns; moulds for metal (other than ingot moulds), metal carbides, glass, mineral materials, rubber or plastics	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
8482	Ball or roller bearings	Manufacture: —in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and —where, within the above limit, the materials classified in the same heading as the product are only used up to a value of 10% of the ex-works price of the product
8484	Gaskets and similar joints of metal sheeting combined with other material or of two or more layers of metal; sets or assortments of gaskets and similar joints, dissimilar in composition, put up in pouches, envelopes or similar packings	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
8485	Machinery parts, not containing electrical connectors, insulators, coils, contacts or other electrical features, not specified or included elsewhere in this chapter	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
ex Chapter 85	Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers and parts and accessories of such articles, except for those falling within the following headings or parts of headings for which the rules are set out below: 8501, 8502, ex 8522, 8523 to 8529, 8535 to 8537, 8542, 8544 to 8548	Manufacture: —in which the value of all the materials used does not exceed 40% of ex-works price of the product, and —where, within the above limit, the materials classified within the same heading at the product are only used up to a value of 10% of the ex-works price of the product
8501	Electric motors and generators (excluding generating sets)	Manufacture: —in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and —where, within the above limit, the materials classified within heading No. 8503 are only used up to a value of 10% of the ex-works price of the product
8502	Electric generating sets and rotary converters	Manufacture: —in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and —where, within the above limit, the materials classified within heading No. 8501 or 8503, taken together, are only used up to a value of 10% of the ex-works price of the product

HS Heading No	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
ex 8522	Parts and accessories of cinematographic sound recorders or reproducers for film of 16 mm or more	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
8523	Prepared unrecorded media for sound recording or similar recording of other phenomena, other than products of Chapter 37	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
8524	Records, tapes and other recorded media for sound or other similarly recorded phenomena, including matrices and masters for the production of records, but excluding products of Chapter 37: —Matrices and masters for the production of records —Other	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product Manufacture: —in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and —where, within the above limit, the materials classified within heading No. 8523 are only used up to a value of 10% of the ex-works price of the product
8525	Transmission apparatus for radio-telephony, radio-telegraphy, radio-broadcasting or television, whether or not incorporating reception apparatus or sound recording or reproducing apparatus; television cameras	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
8526	Radar apparatus, radio navigational aid apparatus and radio remote control apparatus	Manufacture: —in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and —where, the value of all the non-originating materials used does not exceed the value of the originating materials used
8527	Reception apparatus for radio-telephony, radio-telegraphy or radio-broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock	Manufacture: —in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and —where, the value of all the non-originating materials used does not exceed the value of the originating materials used
8528	Television receivers (including video monitors and video projectors), whether or not combined, in the same housing, with radio-broadcast receivers or sound or video recording or reproducing apparatus	Manufacture: —in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and —where, the value of all the non-originating materials used does not exceed the value of the originating materials used
8529	Parts suitable for use solely or principally with the apparatus of heading Nos. 8525 to 8528	Manufacture: —in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and —where, the value of all the non-originating materials used does not exceed the value of the originating materials used
8535 and 8536	Electrical apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits	Manufacture: —in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and —where, within the above limit, the materials classified within heading No. 8538 are only used up to a value of 10% of the ex-works price of the product

HS Heading No	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
8537	Boards, panels (including numerical control panels), consoles, desks, cabinets and other bases, equipped with two or more apparatus of heading No. 8535 or 8536, for electric control or the distribution of electricity, including those incorporating instruments or apparatus of Chapter 90, other than switching apparatus of heading No. 8517	Manufacture: —in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and —where, within the above limit, the materials classified within heading No. 8538 are only used up to a value of 10% of the ex-works price of the product
ex 8541	Diodes, transistors and similar semiconductor devices, except wafers not yet cut into chips	Manufacture: —in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and —where, within the above limit, the materials classified within the same heading as the products are only used up to a value of 10% of the ex-works price of the product
8542	Electronic integrated circuits and microassemblies	Manufacture: —in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and —where, within the above limit, the materials classified within heading No. 8541 or 8542, taken together, are only used up to a value of 10% of the ex-works price of the product
8544	Insulated (including enamelled or anodized) wire, cable (including co-axial cable) and other insulated electric conductors, whether or not fitted with connectors; optical fibre cables, made up of individually sheathed fibres, whether or not assembled with electric conductors or fitted with connectors	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
8545	Carbon electrodes, carbon brushes, lamp carbons, battery carbons and other articles of graphite or other carbon, with or without metal, of a kind used for electrical purposes	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
8546	Electrical insulators of any material	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
8547	Insulating fittings for electrical machines, appliances or equipment, being fittings wholly of insulating material apart from any minor components of metal (for example, threaded sockets) incorporated during moulding solely for purposes of assembly other than insulators of heading No. 8546; electrical conduit tubing and joints therefor, of base metal lined with insulating material	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
8548	Electrical parts of machinery or apparatus, not specified or included elsewhere in this chapter	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
8601 to 8607	Railway or tramway locomotives, rolling-stock and parts thereof	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
8608	Railway or tramway track fixtures and fittings; mechanical (including electromechanical) signalling, safety or traffic control equipment for railways, tramways, roads, inland waterways, parking facilities; port installations or airfields; parts of the foregoing	Manufacture: —in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and —where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 10% of the ex-works price of the product
8609	Containers (including containers for the transport of fluids) specially designed and equipped for carriage by one or more modes of transport	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product

HS Heading No	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
ex Chapter 87	Vehicles other than railway or tramway rolling-stock and parts and accessories thereof; except for those falling within the following headings or parts of headings for which the rules are set out below: 8709 to 8711, ex 8712, 8715 and 8716	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
8709	Works trucks, self-propelled, not fitted with lifting or handling equipment, of the type used in factories, warehouses, dock areas or airports for short distance transport of goods; tractors of the type used on railway station platforms; parts of the foregoing vehicles	Manufacture: —in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and —where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 10% of the ex-works price of the product
8710	Tanks and other armoured fighting vehicles, motorized, whether or not fitted with weapons, and parts of such vehicles	Manufacture: —in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and —where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 10% of the ex-works price of the product
8711	Motorcycles (including mopeds) and cycles fitted with an auxiliary motor, with or without side-cars; side-cars	Manufacture: —in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and —where the value of all the non-originating materials used does not exceed the value of the originating materials used
ex 8712	Bicycles without ball bearings	Manufacture from materials not classified within heading No. 8714
8715	Baby carriages and parts thereof	Manufacture: —in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and —where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 10% of the ex-works price of the product
8716	Trailers and semi-trailers; other vehicles, not mechanically propelled; parts thereof	Manufacture: —in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and —where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 10% of the ex-works price of the product
8803	Parts of goods of heading No. 8801 or 8802	Manufacture in which the value of all the materials of heading No. 8803 used does not exceed 5% of the ex-works price of the product
8804	Parachutes (including dirigible parachutes) and rotachutes; parts thereof and accessories thereto: —Rotachutes  —Other	Manufacture from materials of any heading including other materials of heading No. 8804 Manufacture in which the value of all the materials of heading No. 8804 used does not exceed 10% of the ex-works price of the product

HS Heading No	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
8805	Aircraft launching gear; deck-arrestor or similar gear; ground flying trainers; parts of the foregoing articles	Manufacture in which the value of all the materials of heading No. 8805 used does not exceed 5% of the ex-works price of the product
Chapter 89	Ships, boats and floating structures	Manufacture in which all the materials used are classified within a heading other than that of the product. However, hulls of heading No. 8906 may not be used
ex Chapter 90	Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; parts and accessories thereof; except for those falling within the following headings or parts of headings for which the rules are set out below: 9001, 9002, 9004, ex 9006, ex 9014, 9015 to 9020 and 9024 to 9033	Manufacture: —in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and —where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 10% of the ex-works price of the product
9001	Optical fibres and optical fibre bundles; optical fibre cables other than those of heading No. 8544; sheets and plates of polarizing material; lenses (including contact lenses), prisms, mirrors and other optical elements, of any material, unmounted, other than such elements of glass not optically worked	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
9002	Lenses, prisms, mirrors and other optical elements, of any material, mounted, being parts of or fittings for instruments or apparatus, other than such elements of glass not optically worked	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
9004	Spectacles, goggles and the like, corrective, protective or other	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
ex 9006	Photographic (other than cinematographic) cameras, other than the following: —Cameras of a kind used for preparing printing plates or cylinders —Cameras of a kind used for recording documents on microfilm, microfiche or other microforms —Cameras specially designed for underwater use, for aerial survey or for medical or surgical examination of internal organs; comparison cameras for forensic or criminological purposes —Instant print cameras —Other cameras: —With a through-the-lens viewfinder (single lens reflex (SLR), for roll film of a width not exceeding 35 mm —Other, for roll film of a width less than 35 mm —Other, for roll film of a width of 35 mm	Manufacture: —in which the value of all the materials used does not exceed 45% of the ex-works price of the product, and —where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 10% of the ex-works price of the product
ex 9014	Other navigational instruments and appliances	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
9015	Surveying (including photogrammetrical surveying), hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances, excluding compasses; rangefinders	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
9016	Balances of a sensitivity of 5 cg or better, with or without weights	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product

HS Heading No	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
9017	Drawing, marking-out or mathematical calculating instruments (for example, drafting machines, pantographs, protractors, drawing sets, slide rules, disc calculators); instruments for measuring length, for use in the hand (for example, measuring rods and tapes, micrometers, callipers), not specified or included elsewhere in this chapter	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
ex 9018	Dentists' chairs incorporating dental appliances or dentists' spittoons	Manufacture from materials of any heading, including other materials of heading No. 9018
9019	Mechano-therapy appliances; massage apparatus; psychological aptitude-testing apparatus; ozone therapy, oxygen therapy, aerosol therapy, artificial respiration or other therapeutic respiration apparatus	Manufacture: <ul style="list-style-type: none"> <li>—in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and</li> <li>—where, within the above limit, the materials classified in the same heading as the product are only used up to a value of 10% of the ex-works price of the product</li> </ul>
9020	Other breathing appliances and gas masks, excluding protective masks having neither mechanical parts nor replaceable filters	Manufacture: <ul style="list-style-type: none"> <li>—in which the value of all the materials used does not exceed 40% of ex-works price of the product, and</li> <li>—where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 10% of the ex-works price of the product</li> </ul>
9024	Machines and appliances for testing the hardness, strength, compressibility, elasticity or other mechanical properties of materials (for example, metals, wood, textiles, paper, plastics)	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
9025	Hydrometers and similar floating instruments, thermometers, pyrometers, barometers, hygrometers and psychrometers, recording or not, and any combination of these instruments	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
9026	Instruments and apparatus for measuring or checking the flow, level, pressure or other variables of liquids or gases (for example, flow meters, level gauges, manometers, heat meters), excluding instruments and apparatus of heading No. 9014, 9015, 9028 or 9032	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
9027	Instruments and apparatus for physical or chemical analysis (for example, polarimeters, refractometers, spectrometers, gas or smoke analysis apparatus); instruments and apparatus for measuring or checking viscosity, porosity, expansion, surface tension or the like; instruments and apparatus for measuring or checking quantities of heat, sound or light (including exposure meters); microtomes	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
9028	Gas, liquid or electricity supply or production meters, including calibrating meters therefor	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
9029	Revolution counters, production counters, taximeters, mileometers, pedometers and the like; speed indicators and tachometers, other than those of heading No. 9014 or 9015; stroboscopes	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
9030	Oscilloscopes, spectrum analysers and other instruments and apparatus for measuring or checking electrical quantities, excluding meters of heading No. 9028; instruments and apparatus for measuring or detecting alpha, beta, gamma, X-ray, cosmic or other ionizing radiations	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product



HS Heading No	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
9031	Measuring or checking instruments, appliances and machines, not specified or included elsewhere in this chapter; profile projectors	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
9032	Automatic regulating or controlling instruments and apparatus	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
9033	Parts and accessories (not specified or included elsewhere in this chapter) for machines, appliances, instruments or apparatus of Chapter 90	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
ex Chapter 91	Clocks and watches and parts thereof; except for those falling under the following headings for which the rules are set out below: 9101 to 9105 and 9110 to 9113	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
9101 to 9105	Watches and clocks	Manufacture in which the value of all the materials used does not exceed 45% of the ex-works price of the product
9110	Complete watch or clock movements, unassembled or partly assembled (movement sets); incomplete watch or clock movements, assembled; rough watch or clock movements	Manufacture: —in which the value of all the materials used does not exceed 40% of ex-works price of the product, and —where, within the above limit, the materials classified within heading No. 9114 are only used up to a value of 10% of the ex-works price of the product
9111	Watch cases and parts thereof	Manufacture: —in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and —where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 10% of the ex-works price of the product
9112	Clock cases and cases of a similar type for other goods of this chapter, and parts thereof	Manufacture: —in which the value of all the materials used does not exceed 40% of the ex-works price of the product, and —where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 10% of the ex-works price of the product
9113	Watch straps, watch bands and watch bracelets, and parts thereof: —Of base metal, whether or not plated, or clad with precious metal —Other	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
Chapter 92	Musical instruments, parts and accessories of such articles	Manufacture in which the value of all the materials used does not exceed 40% of the ex-works price of the product
Chapter 93	Arms and ammunitions; parts and accessories thereof	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product

HS Heading No	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
ex 9401 and ex 9403	Base metal furniture, incorporating unstuffed cotton cloth of a weight of 300 g/m <sup>2</sup> or less	Manufacture in which all the materials used are classified within a heading other than that of the product or Manufacture from cotton cloth already made up in a form ready for use of heading No. 9401 or 9403, provided: —its value does not exceed 25% of the ex-works price of the product, and —all the other materials used are already originating and are classified within a heading other than heading No. 9401 or 9403
9405	Lamps and lighting fittings including searchlights and spotlights and parts thereof, not elsewhere specified or included; illuminated signs, illuminated name-plates and the like, having a permanently fixed light source, and parts thereof not elsewhere specified or included	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
9406	Prefabricated buildings	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
ex 9502	Dolls, with electric motors	Manufacture in which the electric motor used must be originating and all other materials used must be classified in a heading other than that of the product
9503	Other toys; reduced-size ("scale") models and similar recreational models, working or not; puzzles of all kinds	Manufacture in which: —all the materials used are classified within a heading other than that of the product, and —provided the value of all the materials used does not exceed 50% of the ex-works price of the product
ex 9506	Finished golf club heads	Manufacture from roughly shaped blocks
ex 9507	Fishing rods, fish-hooks and other line fishing tackle; fish landing nets, butterfly nets and similar nets; decoy "birds" (other than those of heading No. 92.08 or 97.05) and similar hunting or shooting requisites: —mounted fish-hooks with artificial bait; —mounted fishing lines including casts	Manufacture in which all the materials used are classified in a heading other than that of the product. However, materials classified in the same heading may be used provided their value does not exceed 25% of the ex-works price of the product
ex 9601 and ex 9602	Articles of animal, vegetable or mineral carving materials	Manufacture from "worked" carving materials of the same heading
ex 9603	Brooms and brushes, (except for besoms and the like and brushes made from marten or squirrel hair), hand-operated mechanical floor sweepers, not motorized, paint pads and rollers, squeegees and mops	Manufacture in which the value of all the materials used does not exceed 50% of the ex-works price of the product
9605	Travel sets for personal toilet, sewing or shoe or clothes cleaning	Each item in the set must satisfy the rule which would apply to it if it were not included in the set. However, non-originating articles may be incorporated, provided their total value does not exceed 15% of the ex-works price of the set
9606	Buttons, press-fasteners, snap-fasteners and press-studs, button moulds and other parts of these articles; button blanks	Manufacture in which: —all the materials used are classified within a heading other than that of the product, and —the value of all the materials used does not exceed 50% of the ex-works price of the product

HS Heading No	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
ex 9608	Ball point pens; felt tipped and other porous-tipped pens and markers, fountain pens, stylograph pens and other pens; duplicating stylos, propelling or sliding pencils; pen-holders, pencil-holders and similar holders; parts (including caps and clips) of the foregoing articles, other than those of heading No. 9609; —fountain pens, stylograph pens and other pens with nibs	Manufacture in which all the materials used are classified in a heading other than that of the product. However, nibs or nib points may be used and the other materials classified in the same heading may also be used provided their value does not exceed 10% of the ex-works price of the product
9612	Typewriter or similar ribbons, inked or otherwise prepared for giving impressions, whether or not on spools or in cartridges; ink-pads, whether or not inked, with or without boxes	Manufacture in which: —all the materials used are classified within a heading other than that of the product, and —the value of all the materials used does not exceed 50% of the ex-works price of the product
ex 9614	Smoking pipes or pipe bowls	Manufacture from roughly shaped blocks

### ANNEX III

Within the meaning of this Protocol "countries and territories" shall mean the countries and territories referred to in Part Four of the Treaty establishing the European Economic Community listed below:

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

1. Country having special relations with the Kingdom of Denmark:
  - Greenland.
2. Overseas territories of the French Republic:
  - New Caledonia and Dependencies,
  - French Polynesia,
  - French Southern and Antarctic Territories,
  - Wallis and Futuna Islands.
3. Territorial collectivities of the French Republic:
  - Mayotte,
  - Saint Pierre and Miquelon.
4. Overseas countries of the Kingdom of the Netherlands:
  - Aruba,
  - Netherlands Antilles:
    - Bonaire,
    - Curaçao,
    - Saba,
    - Saint Eustatius,
    - Saint Maarten.
5. Overseas countries and territories of the United Kingdom of Great Britain and Northern Ireland:
  - Anguilla,
  - Cayman Islands,
  - Falkland Islands,
  - South Sandwich Islands and Dependencies,
  - Montserrat,
  - Pitcairn,
  - Saint Helena and Dependencies,
  - British Antarctic Territory,
  - British Indian Ocean Territory,
  - Turks and Caicos Islands,
  - British Virgin Islands.

## ANNEX IV

### Form for Movement Certificates

1. Movement Certificates EUR. 1 shall be made out on the form of which a specimen appears in this Annex. This form shall be printed in one or more of the languages in which the Convention is drawn up. Certificates shall be made out in one of these languages and in accordance with the provisions of the domestic law of the exporting State; if they are handwritten, they shall be completed in ink and in capital letters.
2. Each certificate shall measure  $210 \times 297$  mm, a tolerance of up to plus 8 mm or minus 5 mm in the length may be allowed. The paper used must be white, sized for writing, not containing mechanical pulp and weighing not less than  $60 \text{ g/m}^2$ . It shall have a printed green guilloche pattern background making any falsification by mechanical or chemical means apparent to the eye.
3. The exporting States may reserve the right to print the certificates themselves or may have them printed by approved printers. In the latter case each certificate must include a reference to such approval. Each certificate must bear the name and address of the printer or a mark by which the printer can be identified. It shall also bear a serial number, either printed or not, by which it can be identified.
4. Forms of the kind given in Annex 4 to Decision No. 1/89 of the ACP-EEC Council of Ministers may continue to be used until stocks are exhausted or until 31 December 1992 at the latest.

**MOVEMENT CERTIFICATE**

<p>1. Exporter (Name, full address, country)</p>	<p><b>EUR. 1</b>      No <b>A 000.000</b></p> <p>See notes overleaf before completing this form</p>		
<p>3. Consignee (Name, full address, country) (Optional)</p>	<p>2. Certificate used in preferential trade between</p> <p>.....</p> <p align="center">and</p> <p>.....</p> <p align="center">(Insert appropriate countries, groups of countries or territories)</p>		
	<p>4. Country, group of countries or territory in which the products are considered as originating</p>	<p>5. Country, group of countries or territory of destination</p>	
<p>6. Transport details (Optional)</p>	<p>7. Remarks</p>		
<p>8. Item Number; Marks and Numbers; Number and kind of packages <sup>(1)</sup>; Description of goods</p> <p align="center"><small>(<sup>1</sup>) If goods are not packed, Indicate number of articles or state "in bulk" as appropriate</small></p> <p align="center"><small>(<sup>2</sup>) Complete only where the regulations of the exporting country or territory require</small></p>	<p>9. Gross mass (kg) or other measure (litres, m<sup>3</sup>, etc.)</p>	<p>10. Invoices (Optional)</p>	
<p><b>11. CUSTOMS ENDORSEMENT</b></p> <p>Declaration certified</p> <p>Export document <sup>(?)</sup></p> <p>Form ..... No.....</p> <p>Customs office .....</p> <p>Issuing country or territory .....      <b>Stamp</b></p> <p>.....</p> <p>Date .....</p> <p>.....</p> <p align="center">(Signature)</p>	<p><b>12. DECLARATION BY THE EXPORTER</b></p> <p>I, the undersigned, declare that the goods described above meet the conditions required for the issue of this certificate.</p> <p>Place and date .....</p> <p>.....</p> <p align="center">(Signature)</p>		

13. REQUEST FOR VERIFICATION, to:	14. RESULT OF VERIFICATION,
<p>Verification of the authenticity and accuracy of this certificate is requested.</p> <p>..... (Place and date)</p> <p>Stamp</p> <p>..... (Signature)</p>	<p>Verification carried out shows that this certificate (*)</p> <p><input type="checkbox"/> Was issued by the customs office indicated and that the information contained therein is accurate.</p> <p><input type="checkbox"/> does not meet the requirements as to authenticity and accuracy (see remarks appended).</p> <p>..... (Place and date)</p> <p>Stamp</p> <p>..... (Signature)</p> <p>(*) Insert X in the appropriate box.</p>

NOTES

1. Certificates must not contain erasures or words written over one another. Any alterations must be made by deleting the incorrect particulars and adding any necessary corrections. Any such alteration must be initialled by the person who completed the certificate and endorsed by the customs authorities of the issuing country or territory.
2. No spaces must be left between the items entered on the certificate and each item must be preceded by an item number. A horizontal line must be drawn immediately below the last item. Any unused space must be struck through in such a manner as to make any later additions impossible.
3. Goods must be described in accordance with commercial practice and with sufficient detail to enable them to be identified.





**DECLARATION BY THE EXPORTER**

I, the undersigned, exporter of the goods described overleaf,

**DECLARE** that the goods meet the conditions required for the issue of the attached certificate:

**SPECIFY** as follows the circumstances which have enabled these goods to meet the above conditions:

.....  
.....  
.....  
.....

**SUBMIT** the following supporting documents<sup>(1)</sup>

.....  
.....  
.....  
.....

**UNDERTAKE** to submit, at the request of the appropriate authorities, any supporting evidence which these authorities may require for the purpose of issuing the attached certificate, and undertake, if required, to agree to any inspection of my accounts and to any check on the processes of manufacture of the above goods, carried out by the said authorities:

**REQUEST** the issue of the attached certificate for these goods.

.....  
(Place and date)

.....  
(Signature)

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<sup>(1)</sup> For example, import documents, movement certificates, invoices, manufacturer's declarations, etc., referring to the products used in manufacture or to the goods re-exported in the same state.

## ANNEX V

### FORM EUR. 2

1. Form EUR. 2, a specimen of which appears in this Annex shall be completed by the exporter. It shall be made out in one of the languages in which the Convention is drawn up and in accordance with the provisions of the domestic law of the exporting State. If it is handwritten it must be completed in ink in capital letters.
2. Form EUR. 2 shall consist of a single sheet measuring 210 × 148 mm. The paper used shall be white, sized for writing, not containing mechanical pulp and weighing not less than 65 g/m<sup>2</sup>.
3. The exporting States may reserve the right to print the forms themselves or may have them printed by printers they have approved. In the latter case each form must include a reference to such approval. In addition, each form shall bear the distinctive sign attributed to the approved printer and a serial number, either printed or not, by which it can be identified.
4. Forms of the kind given in Annex 5 to Decision No. 1/89 of the ACP-EEC Council of Ministers may continue to be used until stocks are exhausted or until 31 December 1992 at the latest.

FORM <b>EUR. 2</b> No.		1 Form used in preferential trade Between <sup>(1)</sup> ..... and.....	
2 Exporter (Name, full address, country)		3 Declaration by exporter  I, the undersigned, exporter of the goods described below declare that the goods comply with the requirements for the completion of this form and that the goods have obtained the status of originating products within the provisions governing preferential trade shown in box 1.	
4 Consignee (Name, full address, country)			
5 Place and date			
		6 Signature of exporter	
7 Remarks <sup>(1)</sup>		8 Country of origin <sup>(2)</sup>	9 Country of destination <sup>(2)</sup>
		10 Gross mass (kg)	
11 Marks; Numbers of consignment: Description of goods		12 Authority in the exporting country <sup>(4)</sup> responsible for verification of the declaration by the exporter.	

<sup>(1)</sup> Insert the countries, groups of countries or territories concerned <sup>(2)</sup> Refer to any verification carried out by the appropriate authorities <sup>(3)</sup> The term country of origin means country, group of countries or territory where the goods are considered to be originating <sup>(4)</sup> The term country means country, group of countries or territory of destination.

Before completing this form read carefully the instructions on the other side.

<p><b>13 Request for verification</b></p> <p>The verification of the declaration by the exporter on the front of this form is requested.<sup>(1)</sup></p> <p>.....19..... (Place and date)</p> <p>Stamp</p> <p>..... (Signature)</p>	<p><b>14 Result of verification</b></p> <p>Verification carried out shows that (*)</p> <p><input type="checkbox"/> the statements and particulars given in this form are accurate.</p> <p><input type="checkbox"/> this form does not meet the requirements as to accuracy and authenticity (see remarks appended).</p> <p>.....19..... (Place and date)</p> <p>Stamp</p> <p>..... (Signature)</p> <p>(*) Insert X in the appropriate box.</p>
---	--

<sup>(1)</sup> Subsequent verifications of forms EUR. 2 shall be carried out at random or whenever the customs authorities of the importing State have reasonable doubt as to the accuracy of the information regarding the authenticity of the forms and the origin of the goods in question.

(VERSO)

#### Instructions for the completion of form EUR. 2

1. A form EUR. 2 may be made out only for goods which in the exporting country fulfil the conditions specified by the provisions governing the trade referred to in box 1. These provisions must be studied carefully before the form is completed.
2. In the case of a consignment by parcel post the exporter attaches the form to the dispatch note. In the case of a consignment by letter post he encloses the form in a package. The reference 'EUR. 2' and the serial number of the form should be stated on the customs green label declaration C1 or on the customs declaration C2/CP3, as appropriate.
3. These instructions do not exempt the exporter from complying with any other formalities required by customs or postal regulations.
4. An exporter who uses this form is obliged to submit to the appropriate authorities any supporting evidence which they may require and to agree to any inspection by them of his accounts and of the processes of manufacture of the goods described in box 11 of this form.

## ANNEX VII

### Information certificate

1. The form of information certificate given in this Annex shall be used and be printed in one or more of the official languages in which the Convention is drawn up and in accordance with the provisions of the domestic law of the exporting State. Information certificates shall be completed in one of those languages; if they are handwritten, they shall ~~be completed in ink in capital letters. They shall bear a serial number, whether or not printed, by which they can be identified.~~
2. The information certificate shall measure  $210 \times 297$  mm, a tolerance of up to plus 8 mm or minus 5 mm in the length may be allowed. The paper must be white, sized for writing, not containing mechanical pulp and weighing not less than  $65 \text{ g/m}^2$ .
3. *The national administration* may reserve the right to print the forms themselves or may have them printed by printers approved by them. In the latter case, each form must include a reference to such approval. The forms shall bear the name and address of the printer or a mark by which the printer can be identified.

**EUROPEAN COMMUNITIES**

1. Supplier <sup>(1)</sup>		<b>INFORMATION CERTIFICATE</b> <i>to facilitate the issue of a</i> <b>MOVEMENT CERTIFICATE</b> <i>for preferential trade between the</i> <div style="border: 1px solid black; padding: 5px; text-align: center; margin: 5px auto; width: 80%;"> <b>EUROPEAN ECONOMIC COMMUNITY and THE ACP STATES</b> </div>		
2. Consignee <sup>(1)</sup>		4. State in which the working or processing has been carried out		
3. Processor <sup>(1)</sup>				
6. Customs office of importation <sup>(1)</sup>		5. For official use		
7. Import document <sup>(1)</sup> Form..... No..... Series..... Date <input type="text"/> <input type="text"/> <input type="text"/>		GOODS SENT TO THE MEMBER STATES OF DESTINATION		
8. Marks, numbers, quantity and kind of package	9. Tariff heading number and description of goods			
		11. Value <sup>(1)</sup>		
IMPORTED GOODS USED				
12. Tariff heading number and description	13. Country of origin	14. Quantity <sup>(1)</sup>	15. Value <sup>(1)</sup>	
16. Nature of the working or processing carried out				
17. Remarks				
18. CUSTOMS ENDORSEMENT Declaration certified. Document: ..... Form..... No..... Customs office ..... Date <input type="text"/> <input type="text"/> <input type="text"/>  <div style="border: 1px solid black; padding: 5px; width: fit-content; margin: 0 auto;">Official Stamp</div> ..... (Signature)		19. DECLARATION BY THE SUPPLIER I, the undersigned, declare that the information on this certificate is accurate.  ..... (Place) <input type="text"/> <input type="text"/> <input type="text"/> (Date)  ..... (Signature)		

<sup>(1)</sup> <sup>(1)</sup> <sup>(1)</sup> <sup>(1)</sup> See footnotes on verso.

REQUEST FOR VERIFICATION	RESULT OF VERIFICATION
<p>The undersigned customs official requests verification of the authenticity and accuracy of this information certificate</p>	<p>Verification carried out by the undersigned customs official shows that this information certificate:</p> <p>(a) was issued by the customs office indicated and that the information contained therein is accurate.*</p> <p>(b) Does not meet the requirements as to authenticity and accuracy (see notes appended).*</p>
<p>..... (Place and date)</p>	<p>..... (Place and date)</p>
<p><b>Official stamp</b></p>	<p><b>Official stamp</b></p>
<p>..... (Official's signature)</p>	<p>..... (Official's signature)</p>

(\* Delete where not applicable.

#### CROSS REFERENCES

- (1) Name of individual or business and full address.
- (2) Optional information.
- (3) kg. hl. m<sup>3</sup> or other measure.
- (4) Packaging shall be considered as forming a whole with the goods contained therein. However, this provision shall not apply to packaging which is not of the normal type for the article packed, and which has a lasting utility value of its own, apart from its function as packaging.
- (5) The value must be indicated in accordance with the provisions on rules of origin."

## ANNEX VIII

### List of products referred to in Article 33 which are temporarily excluded from the scope of this Protocol

HS heading No.	Description of product
ex 2707	Oils in which the weight of the aromatic constituents exceeds that of the non-aromatic constituents, being oils similar to mineral oils obtained by distillation of high temperature coal tar, of which more than 65% by volume distils at a temperature of up to 250°C (including mixtures of petroleum spirit and benzole), for use as power or heating fuels
2709 to 2715	Mineral oils and products of their distillation; bituminous substances; mineral waxes
ex 2901	Acyclic hydrocarbon for use as power or heating fuels
ex 2902	Cyclanes and cyclenes (other than azulenes), benzene, toluene, xylenes, for use as power or heating fuels
ex 3403	Lubricating preparations containing petroleum oils or oils obtained from bituminous minerals, provided they represent less than 70% by weight
ex 3404	Artificial waxes and prepared waxes with a basis of paraffin, petroleum waxes, waxes obtained from bituminous minerals, slack wax or scale wax
ex 3811	Prepared additives for lubricating oil, containing petroleum oils or oils obtained from bituminous minerals



ANNEX IX

**Form for Application for a Derogation**

<p>1. COMMERCIAL DESCRIPTION OF THE FINISHED PRODUCT</p> <p>1.1 CUSTOMS CLASSIFICATION (H.S. CODE)</p>	<p>2. ANTICIPATED ANNUAL QUANTITY OF EXPORTS TO THE COMMUNITY (WEIGHT, No OF PIECES, METRES OR OTHER UNIT)</p>
<p>3. COMMERCIAL DESCRIPTION ON THIRD COUNTRY MATERIALS</p> <p>CUSTOMS CLASSIFICATION (H.S. CODE)</p>	<p>4. ANTICIPATED ANNUAL QUANTITY OF THIRD COUNTRY MATERIALS TO BE USED</p>
<p>5. VALUE OF THIRD COUNTRY MATERIALS</p>	<p>6. VALUE OF FINISHED PRODUCT</p>
<p>7. ORIGIN OF THIRD COUNTRY MATERIALS</p>	<p>8. REASONS WHY THE RULE OF ORIGIN FOR THE FINISHED PRODUCT CANNOT BE FULFILLED</p>
<p>9. COMMERCIAL DESCRIPTION OF MATERIAL ORIGINATING IN THE ACP STATES, EEC OR OCT TO BE USED</p>	<p>10. ANTICIPATED ANNUAL QUANTITY OF ACP, EEC OR OCT MATERIALS TO BE USED</p>
<p>11. VALUE OF ACP, EEC OR OCT MATERIALS</p>	<p>12. WORKING OR PROCESSING CARRIED OUT IN THE EEC OR OCT ON THIRD COUNTRY MATERIALS WITHOUT OBTAINING ORIGIN</p>
<p>13. DURATION REQUESTED FOR THE DEROGATION: FROM ..... TO .....</p>	
<p>14. DETAILED DESCRIPTION OF WORKING AND PROCESSING IN THE ACP STATES</p>	<p>15. CAPITAL STRUCTURE OF THE FIRM CONCERNED</p>
	<p>16. AMOUNT OF INVESTMENTS MADE/FORESEEN</p>
	<p>17. STAFF EMPLOYED/EXPECTED</p>
<p>18. VALUE ADDED BY THE WORKING OR PROCESSING IN THE ACP STATES:</p> <p>18.1 LABOUR:</p> <p>18.2 OVERHEADS:</p> <p>18.3 OTHERS:</p>	<p>20. POSSIBLE DEVELOPMENTS TO OVERCOME THE NEED FOR A DEROGATION</p>
<p>19. OTHER POSSIBLE SOURCES OF SUPPLY FOR MATERIALS</p>	<p>21. OBSERVATIONS</p>

## Notes

1. If the boxes in the form are not sufficient to contain all relevant information, additional pages may be attached to the form. In this case, the mention " see annex " shall be entered in the box concerned:

2. If possible, samples or other illustrative material (pictures, designs, catalogues, etc.) of the final product and of the materials should accompany the form.

3. A form shall be completed for each product covered by the request.

*Boxes 3, 4, 5, 7:* " third country " meaning any country which is not an ACP or Community State or OCT.

*Box 12:* If third country materials have been worked or processed in the Community or in the OCT without obtaining origin, before being further processed in the ACP State requesting the derogation, indicate the working or processing carried out in the Community or OCT.

*Box 13:* The dates to be indicated are the initial and final one of the period in which EUR. 1 certificates may be issued under the derogation.

*Box 18:* Indicate either the percentage of added value in respect of the ex works price of the product or the monetary amount of added value for unit of product.

*Box 19:* If alternative sources of materials exist, indicate here what they are and, if possible, the reasons of cost or other why they are not used.

*Box 20:* Indicate possible further investments or suppliers differentiation which make the derogation necessary for only a limited period of time.

## **PROTOCOL 2**

### **on the operating expenditure of the joint Institutions**

The Contracting Parties have agreed upon the following provisions, which shall be annexed to the Convention:

#### **ARTICLE 1**

The Member States and the Community on the one hand, and the ACP States on the other, shall be responsible for such expenditure as they shall incur by reason of their participation in the meetings of the Council of Ministers and its dependent bodies, both with regard to staff, travel and subsistence expenditure and to postal and telecommunications expenses.

Expenditure in connection with interpreting at meetings, translation and reproduction of documents, and the practical arrangements for meetings (such as premises, equipment and messengers) shall be borne by the Community or by one of the ACP States, according to whether the meetings take place in the territory of a Member State or in that of an ACP State.

#### **ARTICLE 2**

The Community and the ACP States shall be severally responsible for the travel and subsistence expenditure of their respective participants at the meetings of the Joint Assembly.

They shall likewise be responsible for the travel and subsistence expenditure of the personnel required for such meetings and for postal and telecommunications expenses.

Expenditure in connection with interpreting at meetings, translation and reproduction of documents, and the organization of meetings, (such as premises, equipment, messengers) shall be borne by the Community or by the ACP States, according to whether the meetings take place in the territory of a Member State or in that of an ACP State.

#### **ARTICLE 3**

The arbitrators appointed in accordance with Article 352 of the Convention shall be entitled to a refund of their travel and subsistence expenditure. The latter shall be determined by the Council of Ministers.

One-half of travel and subsistence expenditure incurred by the arbitrators shall be borne by the Community and the other half by the ACP States.

Expenditure relating to any Registry set up by the arbitrators, to preparatory inquiries into disputes, and to the organization of hearings (such as premises, personnel and interpreting) shall be borne by the Community.

Expenditure relating to special inquiries shall be settled together with the other costs and the parties shall deposit advances as determined by an order of the arbitrators.

## **PROTOCOL 3**

### **on privileges and immunities**

The Contracting Parties,

Desiring, by the conclusion of a Protocol on privileges and immunities, to facilitate the smooth functioning of the Convention, the preparation of its work and implementation of the measures adopted for its application;

Whereas it is therefore necessary to specify the privileges and immunities which may be claimed by persons participating in work relating to the application of the Convention and to the arrangements applicable to official communications connected with such work, without prejudice to the provisions of the Protocol on the privileges and immunities of the European Communities, signed at Brussels on 8 April 1965<sup>1</sup>;

Whereas it is also necessary to lay down the treatment to be accorded to the property, funds and assets of the Council of ACP Ministers and its staff;

Whereas the Georgetown Agreement of 6 June 1975 constituted the ACP Group of States and instituted a Council of ACP Ministers, and a Committee of Ambassadors; whereas the organs of the ACP Group of States are to be serviced by the Secretariat of the ACP States;

Have agreed upon the following provisions, which shall be annexed to the Convention:

#### **CHAPTER 1**

##### **Persons taking part in the Work of the Convention**

###### **ARTICLE 1**

The representatives of the Governments of the Member States and of the ACP States and the Representatives of the Institutions of the European Communities, as also their advisers and experts and the members of the staff of the Secretariat of the ACP States taking part, in the territory of the Member States or of the ACP States, in the work either of the institutions of the Convention or of the co-ordinating bodies, or in work connected with the application of the Convention, shall enjoy the customary privileges, immunities and facilities while carrying out their duties and while travelling to or from the place at which they are required to carry out such duties.

The preceding paragraph shall also apply to members of the Joint Assembly of the Convention, to the arbitrators who may be appointed under the Convention, to members of the consultative bodies of the economic and social sectors which may be set up, to the officials and employees of these institutions, and also to the members of the agencies of the European Investment Bank and its staff, and to the staff of the Centre for the Development of Industry and the Technical Centre for Agricultural and Rural Co-operation.

#### **CHAPTER 2**

##### **Property, Funds and Assets of the Council of ACP Ministers**

###### **ARTICLE 2**

The premises and buildings occupied by the Council of ACP Ministers for official purposes shall be inviolable. They shall be exempt from search, requisition, confiscation or expropriation.

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<sup>1</sup>Treaty Series No. 15 (1979), Cmnd. 7460, page 190.

Except when required for the purposes of investigating an accident caused by a motor vehicle belonging to the said Council or being used on its account, or in the event of an infringement of road traffic regulations or of an accident caused by such a vehicle, the property and assets of the Council of ACP Ministers shall not be the subject of any administrative or legal measures of constraint without the authorization of the Council of Ministers set up under the Convention.

#### ARTICLE 3

The archives of the Council of ACP Ministers shall be inviolable.

#### ARTICLE 4

The Council of ACP Ministers, its assets, income and other property shall be exempt from all direct taxes.

The host State shall, wherever possible, take the appropriate measures to remit or refund the amount of indirect taxes or sales taxes included in the price of movable or immovable property, where the Council of ACP Ministers makes, strictly for its official use, substantial purchases, the price of which includes taxes of this kind.

No exemption shall be granted in respect of taxes, charges, duties or fees which represent charges for services rendered.

#### ARTICLE 5

The Council of ACP Ministers shall be exempt from all customs duties, prohibitions and restrictions on imports in respect of articles intended for its official use; articles so imported may not be sold or otherwise disposed of, whether or not in return for payment, in the territory of the country into which they have been imported, except under conditions approved by the Government of that country.

### CHAPTER 3

#### Official Communications

#### ARTICLE 6

For their official communications and the transmissions of all their documents, the European Economic Community, the institutions of the Convention and the co-ordinating bodies shall enjoy in the territory of the States party to the Convention the treatment accorded to international organizations.

Official correspondence and other official communications of the European Economic Community, the joint institutions of the Convention and the co-ordinating bodies shall not be subject to censorship.

### CHAPTER 4

#### Staff of the Secretariat of the ACP States

#### ARTICLE 7

1. The Secretary or Secretaries and Deputy Secretary or Deputy Secretaries of the Council of ACP Ministers and the other permanent members of the staff of senior rank as designated by the ACP States, of the Council of ACP Ministers shall enjoy, in the State in which the Council of ACP Ministers is established, under the responsibility of the Chairman-in-Office of the Committee of ACP Ambassadors, the advantages accorded to the diplomatic staff of diplomatic missions. Their spouses and their children under age living in their household shall be entitled, under the same conditions, to the advantages accorded to the spouses and children under age of such diplomatic staff.

2. Permanent ACP staff members not referred to in paragraph 1 shall be exempted by their host country from any taxes on salaries, emoluments or allowances paid to them by the ACP States from the day on which such income becomes subject to tax levied for the benefit of the ACP States.

The above provision shall not apply either to pensions paid by the ACP Secretariat to its former staff members or their dependants, or to salaries, emoluments or allowances paid to its local staff.

#### ARTICLE 8

The State in which the Council of ACP Ministers is established shall grant immunity from legal proceedings to permanent members of the staff of the Secretariat of the ACP States, apart from those referred to in Article 7(1), only in respect of acts done by them in the performance of their official duties. Such immunity shall not, however, apply to infringements of road traffic regulations by a permanent member of the staff of the Secretariat of the ACP States or to damage caused by a motor vehicle belonging to, or driven by, him or her.

#### ARTICLE 9

The names, positions and addresses of the Chairman-in-Office of the Committee of ACP Ambassadors, the Secretary or Secretaries and Deputy Secretary or Deputy Secretaries of the Council of ACP Ministers and of the permanent members of the staff of the Secretariat of the ACP States shall be communicated periodically by the President of the Council of ACP Ministers, the Government of the State in whose territory the Council of ACP Ministers is established.

### CHAPTER 5

#### **Commission Delegations in the ACP States**

##### ARTICLE 10

1. The Commission Delegate and staff appointed to the delegations, with the exception of locally recruited staff, shall be exempted from any direct taxes in the ACP State where they are in post.
2. Article 309(g) shall also apply to staff referred to in paragraph 1.

### CHAPTER 6

#### **General Provisions**

##### ARTICLE 11

The privileges, immunities and facilities provided for in this Protocol shall be accorded to those concerned solely in the interests of the proper execution of their official duties.

Each institution or body referred to in this Protocol shall be required to waive immunity wherever it considers that the waiver of such immunity is not contrary to its own interest.

##### ARTICLE 12

Article 352 of the Convention shall apply to disputes relating to this Protocol.

The Council of ACP Ministers and the European Investment Bank may be party to proceedings during an arbitration procedure.

## PROTOCOL 4

### on the implementation of Article 178

1. The Contracting Parties to the Lomé Convention agree that every endeavour should be made to avoid recourse being had to the safeguard measures provided for under Article 177.
2. Both parties are guided by the conviction that the implementation of Article 178(4) and (5) would enable them to recognize, at an early stage, problems which could arise and, taking account of all relevant factors, avoid as far as possible recourse to measures which the Community would prefer not to adopt *vis-à-vis* its preferential trading partners.
3. Both parties acknowledge the need or implementation of the mechanism of advance information provided for under Article 178(4), the objective of which is to limit, in the case of sensitive products, the risks of sudden or unforeseen recourse to safeguard measures. These arrangements will permit the maintenance of a regular flow of trade information and the simultaneous implementation of regular consultation procedures. Thus the two parties will be in a position to follow closely the trends in the sensitive sectors and detect problems which could arise.
4. The following two procedures result from this:
  - (a) The statistical surveillance mechanism

Without prejudice to internal arrangements that the Community may apply to control its imports, Article 178(4) of the Lomé Convention provides for the institution of a mechanism intended to ensure statistical surveillance of certain ACP exports to the Community and thus facilitate the examination of occurrences such as to cause market disturbances.

This mechanism, the sole objective of which is to facilitate the exchange of information between the parties, should apply only to products which the Community considers, insofar as it is concerned, as sensitive.

The implementation of this mechanism will be the subject of a joint agreement on the basis of data to be furnished by the Community and with the help of statistical information to be communicated by the ACP States to the Commission at the latter's request.

For the effective implementation of this mechanism it is necessary that the ACP States concerned provide the Commission, as far as possible on a monthly basis, with statistics relating to their exports to the Community and to each of its Member States of products considered by the Community to be sensitive.
  - (b) A procedure for regular consultation

The statistical surveillance mechanism mentioned above will enable the two parties better to follow the trends in trade likely to cause concern. On the basis of this information and in accordance with Article 178(5), the Community and the ACP States will have the possibility of holding periodic consultations in order to ensure that the objectives of that Article are fulfilled. These consultations will take place at the request of either party.
5. If the conditions of application of safeguard measures as provided for in Article 177 are fulfilled, it would be the responsibility of the Community, in accordance with Article 178(1) relating to prior consultations concerning the application of safeguard measures, to enter immediately into consultations with the ACP States concerned by providing them with all the information necessary for those consultations, especially the necessary data from which to determine to what extent imports of a specific product from an ACP State or States have caused serious disturbances in a sector of the economy of the Community or of one or more of its Member States.
6. If no other arrangement has been concluded in the meanwhile with the ACP State or States concerned, the competent authorities of the Community may, at the end of the twenty-one day period provided for in respect of those consultations, take the appropriate measures for the implementation of Article 177 of the Convention. These measures shall be communicated immediately to the ACP States and become immediately applicable.

7. This procedure would apply without prejudice to measures which could be taken in the event of special factors within the meaning of Article 178(3) of the Convention. In this case all relevant information will be supplied promptly to the ACP States.
8. In any case, the interests of the least-developed, landlocked and island ACP States will receive particular attention, in accordance with Article 180 of the Convention.
9. The ACP States and the Community are convinced that the implementation of the provisions of the Convention, as well as those of this protocol, are likely to promote, while taking into account the mutual interests of the partners, the attainment of the objectives of the Convention in respect of trade co-operation.



## PROTOCOL 5

### on bananas

The Community and the ACP States agree to the objectives of improving the conditions under which the ACP States' bananas are produced and marketed and of continuing the advantages enjoyed by traditional suppliers in accordance with the undertakings of Article 1 of this Protocol and agree that appropriate measures shall be taken for their implementation.

#### ARTICLE 1

In respect of its banana exports to the Community markets, no ACP State shall be placed, as regards access to its traditional markets and its advantages on those markets, in a less favourable situation than in the past or at present.

#### ARTICLE 2

Each of the ACP States concerned and the Community shall confer in order to determine the measures to be implemented so as to improve the conditions for the production and marketing of bananas. This aim shall be pursued through all the means available under the arrangements of the Convention for financial, technical, agricultural, industrial and regional co-operation. The measures in question shall be designed to enable the ACP States, particularly Somalia, account being taken of their individual circumstances, to become more competitive both on their traditional markets and on the markets of the Community. Measures will be implemented at all stages from production to consumption and will cover the following fields in particular:

- improvement of conditions of production and enhancement of quality through action in the areas of research, harvesting, packaging and handling;
- internal transport and storage;
- marketing and trade promotion.

#### ARTICLE 3

For the purpose of attaining these objectives, the two parties hereby agree to confer in a permanent joint group, assisted by a group of experts, whose task shall be to keep under continuous review any specific problems arising from application of this Protocol in order to suggest solutions.

#### ARTICLE 4

Should the banana-producing ACP States decide to set up a joint organization for the purpose of attaining the objectives of this Protocol, the Community shall support such an organization and shall give consideration to any requests it may receive for support for the organization's activities which fall within the scope of regional schemes under the heading of development finance co-operation.

## PROTOCOL 6

### on rum

#### ARTICLE 1

Until the entry into force of a common organization of the market in spirits, products of subheadings 2208 40 10, 2208 40 90, 2208 90 11 and 2208 90 19 of the Combined Nomenclature originating in the ACP States shall be imported duty free into the Community under conditions such as to permit the development of traditional trade flows between the ACP States and the Community and between the Member States.

#### ARTICLE 2

- (a) For the purposes of applying Article 167 and by the derogation from Article 168(1) of the Convention, the Community shall each year, until 31 December 1995, fix the quantities which may be imported free of customs duties.

These quantities shall be established as follows:

—until 31 December 1993, on the basis of the largest annual quantities imported from the ACP States into the Community in the last three years for which statistics are available, increased, in the period until 31 December 1992, by an annual growth rate of 37% on the market of the United Kingdom and 27% on the other markets of the Community.

However, the volume of the annual quantity shall in no case be less than 172 000 hectolitres of pure alcohol;

—for 1994 and 1995, the volume of the total quota shall in each case be equal to that of the previous year increased by 20 000 hectolitres of pure alcohol.

- (b) For the arrangements applicable from 1996, the Community shall establish, before 1 February 1995, on the basis of a report that the Commission will send to the Council before 1 February 1994, the modalities for the projected abolition of the Community tariff quota, taking into account the situation and prospects on the Community rum market and of the ACP States' exports.
- (c) Where the application of point (a) hampers the development of a traditional trade flow between the ACP States and the Community, the Community shall take appropriate measures to remedy the situation.
- (d) To the extent that the consumption of rum increases significantly in the Community, the Community undertakes to carry out a new examination of the annual rate of increase fixed by this protocol.
- (e) The Community declares itself prepared to conduct appropriate consultations before determining the measures provided for in (c).
- (f) The Community further declares itself willing to seek with the ACP States concerned measures to allow an expansion of their sales of rum on the Community market.

#### ARTICLE 3

With a view to attaining these objectives, the parties agree to confer within a joint working party whose role shall be to examine continuously any specific problems arising from application of this protocol.

#### ARTICLE 4

At the request of the ACP States the Community, in accordance with the provisions of Title X, Part Two, of the Convention, shall assist the ACP States in promoting and expanding their sales on the Community market.

## PROTOCOL 7

### on beef and veal

The Community and the ACP States agree to take the special measures set out below to enable ACP States which are traditional exporters of beef and veal to maintain their position on the Community market, thus guaranteeing a certain level of income for their producers.

#### ARTICLE 1

Within the limits referred to in Article 2, import duties other than customs duties applicable to beef and veal originating in the ACP States shall be reduced by 90%.

#### ARTICLE 2

Without prejudice to Article 4, the reduction in import duties provided for in Article 1 shall apply to the following quantities of boneless meat per calendar year and per country:

Botswana	18 916 tonnes
Kenya	142 tonnes
Madagascar	7 579 tonnes
Swaziland	3 363 tonnes
Zimbabwe	9 100 tonnes

#### ARTICLE 3

In the event of an actual or foreseeable recession in these exports due to disasters such as drought, cyclones or animal diseases, the Community is willing to consider appropriate measures to ensure that quantities affected for these reasons in any year can be delivered in the preceding year or the following year.

#### ARTICLE 4

If, in the course of a given year, one of the ACP States referred to in Article 2 is not in a position to supply the total quantity fixed and does not wish to benefit from the measures referred to in Article 3, the Commission may share out the amount to be made up among the other ACP States concerned. In such a case, the ACP States concerned shall put forward a proposal to the Commission, not later than 1 October of each year, naming the ACP State or States which will be in a position to supply the new additional quantity, at the same time indicating to it the ACP State which is not in a position to supply the full amount allocated to it, on the understanding that this new temporary allocation will not affect the initial quantities.

#### ARTICLE 5

This Protocol shall be implemented in accordance with the common market organization in the beef and veal sector, which, however, shall not affect the obligations entered into by the Community under this Protocol.

#### ARTICLE 6

Should the safeguard clause in Article 177(1) of the Convention be applied in the beef and veal sector, the Community will take the necessary measures to maintain the volume of exports from the ACP States to the Community at a level compatible with its obligations under this Protocol.

## PROTOCOL 8

containing the text of Protocol 3 on ACP sugar appearing in the ACP-EEC Convention of Lomé signed on 28 February 1975 and the corresponding declarations annexed to that Convention

## PROTOCOL 3

### on ACP sugar

#### ARTICLE 1

1. The Community undertakes for an indefinite period to purchase and import, at guaranteed prices, specific quantities of cane sugar, raw or white, which originate in the ACP States and which these States undertake to deliver to it.
2. The safeguard clause in Article 10 of the Convention shall not apply. The implementation of this Protocol is carried out within the framework of the management of the common organization of the sugar market which, however, shall in no way prejudice the commitment of the Community under paragraph 1.

#### ARTICLE 2

1. Without prejudice to Article 7, no change in this Protocol may enter into force until a period of five years has elapsed from the date on which the Convention enters into force. Thereafter, such changes as may be agreed upon will come into force at a time to be agreed.
2. The conditions for implementing the guarantee referred to in Article 1 shall be re-examined before the end of the seventh year of their application.

#### ARTICLE 3

1. Quantities of cane sugar referred to in Article 1, expressed in metric tons of white sugar, hereinafter referred to as "agreed quantities", for delivery in each 12-month period referred to in Article 4(1), shall be as follows:

Barbados	49 300
Fiji	163 600
Guyana	157 700
Jamaica	118 300
Kenya	5 000
Madagascar	10 000
Malawi	20 000
Mauritius	487 200
People's Republic of Congo	10 000
Swaziland	116 400
Tanzania	10 000
Trinidad and Tobago	69 000
Uganda	5,000

2. Subject to Article 7, these quantities may not be reduced without the consent of the individual States concerned.
3. Nevertheless, in respect of the period up to 30 June 1975, the agreed quantities, expressed in metric tons of white sugar, shall be as follows:

Barbados	29 600
Fiji	25 600
Guyana	29 600
Jamaica	83 800
Madagascar	2 000
Mauritius	65 300
Swaziland	19 700
Trinidad and Tobago	54 200

#### ARTICLE 4

1. In each 12-month period from 1 July to 30 June inclusive, hereinafter referred to as the "delivery period", the sugar-exporting ACP States undertake to deliver the quantities referred to in Article 3(1), subject to any adjustments resulting from the application of Article 7. A similar undertaking shall apply equally to the quantities referred to in Article 3(3) in respect of the period up to 30 June 1975, which shall also be regarded as a delivery period.
2. The quantities to be delivered up to 30 June 1975, referred to in Article 3(3), shall include supply en route from port of shipment or, in the case of landlocked States, across frontiers.
3. Deliveries of ACP cane sugar in the period up to 30 June 1975 shall benefit from the guaranteed prices applicable in the delivery period beginning 1 July 1975. Identical arrangements may be made for subsequent delivery periods.

#### ARTICLE 5

1. White or raw sugar shall be marketed on the Community market at prices freely negotiated between buyers and sellers.
2. The Community shall not intervene if and when a Member State allows selling prices within its borders to exceed the Community's threshold price.
3. The Community undertakes to purchase, at the guaranteed price, quantities of white or raw sugar, within agreed quantities, which cannot be marketed in the Community at a price equivalent to or in excess of the guaranteed price.
4. The guaranteed price, expressed in units of account, shall refer to unpacked sugar, cif European ports of the Community, and shall be fixed in respect of standard quality sugar. It shall be negotiated annually, within the price range obtaining in the Community, taking into account all relevant economic factors, and shall be decided at the latest by 1 May immediately preceding the delivery period to which it will apply.

#### ARTICLE 6

Purchase at the guaranteed price, referred to in Article 5(3), shall be assured through the medium of the intervention agencies or of other agents appointed by the Community.

#### ARTICLE 7

1. If, during any delivery period, a sugar-exporting ACP State fails to deliver its agreed quantity in full for reasons of *force majeure* the Commission shall, at the request of the State concerned, allow the necessary additional period for delivery.
2. If a sugar-exporting ACP State informs the Commission during the course of a delivery period that it will be unable to deliver its agreed quantity in full and that it does not wish to have the additional period referred to in paragraph 1, the shortfall shall be re-allocated by the Commission for delivery during the delivery period in question. Such re-allocation shall be made by the Commission after consultation with the States concerned.
3. If, during any delivery period, a sugar-exporting ACP State fails to deliver its agreed quantity in full for reasons other than *force majeure*, that quantity shall be reduced in respect of each subsequent delivery period by the undelivered quantity.
4. It may be decided by the Commission that in respect of subsequent delivery periods, the undelivered quantity shall be re-allocated between the other States which are referred to in Article 3. Such re-allocation shall be made in consultation with the States concerned.

#### ARTICLE 8

1. At the request of one or more of the States supplying sugar under the terms of this Protocol, or of the Community, consultations relating to all measures necessary for the application of this Protocol shall take place within an appropriate institutional framework to be adopted by the Contracting Parties. For this purpose the institutions established by the Convention may be used during the period of application of the Convention.
2. In the event of the Convention ceasing to be operative, the sugar-supplying States referred to in paragraph 1 and the Community shall adopt the appropriate institutional provisions to ensure the continued application of the provisions of this Protocol.
3. The periodical reviews provided for under this Protocol shall take place within the agreed institutional framework.

#### ARTICLE 9

Special types of sugar traditionally delivered to Member States by certain sugar-exporting ACP States shall be included in, and treated on the same basis as, the quantities referred to in Article 3.

#### ARTICLE 10

The provisions of this Protocol shall remain in force after the date specified in Article 91 of the Convention. After that date the Protocol may be denounced by the Community with respect to each ACP State and by each ACP State with respect to the Community, subject to two years' notice.

ANNEX  
to Protocol 3

**Declarations on Protocol 3**

**1. Joint declaration concerning possible requests for participation in the provisions of Protocol 3**

Any request from an ACP State Contracting Party to the Convention not specifically referred to in Protocol 3 to participate in the provisions of that Protocol shall be examined<sup>1</sup>.

**2. Declaration by the Community concerning sugar originating in Belize, St Kitts-Nevis-Anguilla and Suriname**

(a) The Community undertakes to adopt the necessary<sup>2</sup> measures to ensure the same treatment as provided for in Protocol 3, for the following quantities of cane sugar, raw or white, originating in:

Belize	39 400 metric tons
St Kitts-Nevis-Anguilla	14 800 metric tons
Suriname	4 000 metric tons

(b) Nevertheless, in respect of the period up to 30 June 1975, the quantities shall be as follows:

Belize	14 800 metric tons
St Kitts-Nevis-Anguilla	7 900 metric tons <sup>2</sup> .

**3. Declaration by the Community on Article 10 of Protocol 3**

The Community declares that Article 10 of Protocol 3 providing for the possibility of denunciation in that Protocol, under the conditions set out in that Article, is for the purposes of juridical security and does not represent for the Community any qualification or limitation of the principles enunciated in Article 1 of that Protocol<sup>3</sup>.

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<sup>1</sup>Annex XIII to the Final Act of the ACP-EEC Convention.

<sup>2</sup>Annex XXI to the Final Act of the ACP-EEC Convention.

<sup>3</sup>Annex XXII to the Final Act of the ACP-EEC Convention.

ANNEX

to Protocol 8

**Exchange of Letters between the Dominican Republic and the Community  
concerning the Protocol on ACP sugar**

*Letter No. 1 from the Government of the Dominican Republic*

Sir,

I have the honour to confirm that the Dominican Republic wishes neither now nor in the future, to accede to the Protocol on ACP sugar annexed to the ACP-EEC Convention. The Dominican Republic accordingly undertakes not to apply to accede to the said Protocol. It will write a letter to this effect to the ACP Group of States.

I should be obliged if you would acknowledge receipt of this letter.

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

*Letter No. 2 from the President of the Council of the European Communities*

Sir,

I have the honour to acknowledge receipt of your letter of today's date which reads as follows:

[As in No. 1]

The Community confirms its agreement on the content of that letter.

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



## **PROTOCOL 9**

### **concerning products within the province of the European Coal and Steel Community**

#### **ARTICLE 1**

Products within the province of the European Coal and Steel Community shall, when they originate in the ACP States, on import into the Community be admitted free of customs duties and charges having equivalent effect.

#### **ARTICLE 2**

Products referred to in Article 1 originating in the Member States shall, on import into the ACP States, be admitted in accordance with the provisions of Part Three, Title I, Chapter 1 of the Convention.

#### **ARTICLE 3**

If the offers made by firms of the ACP States are likely to be detrimental to the functioning of the common market and if any such detriment is attributable to a difference in the conditions of competition as regards prices, the Community may take appropriate measures, such as withdrawing the concessions referred to in Article 1.

#### **ARTICLE 4**

Consultations shall take place between the parties concerned in all cases where, in the opinion of one of them, the implementation of Articles 1, 2 and 3 calls for such consultations.

#### **ARTICLE 5**

The provisions laying down the rules of origin for the application of the Convention of Lomé shall also apply to this Protocol.

#### **ARTICLE 6**

This Protocol shall not affect the provisions of the Treaty establishing the European Coal and Steel Community, or the powers of jurisdiction conferred by that Treaty.

## FINAL ACT

The plenipotentiaries of: His Majesty The King of the Belgians, Her Majesty The Queen of Denmark, The President of the Federal Republic of Germany, The President of the Hellenic Republic, His Majesty The King of Spain, The President of the French Republic, The President of Ireland, The President of the Italian Republic, His Royal Highness the Grand Duke of Luxembourg, Her Majesty The Queen of the Netherlands, The President of the Portuguese Republic, Her Majesty The Queen of the United Kingdom of Great Britain and Northern Ireland,

Contracting Parties to the Treaty establishing the European Coal and Steel Community<sup>1</sup> and the Treaty establishing the European Economic Community<sup>1</sup>, hereinafter referred to as "the Community", the States of the Community being hereinafter referred to as "Member States",

and of the Council and the Commission of the European Communities, of the one part,  
and

The plenipotentiaries of: The President of the People's Republic of Angola, Her Majesty The Queen of Antigua and Barbuda, The Head of State of the Commonwealth of the Bahamas, The Head of State of Barbados, Her Majesty The Queen of Belize, The President of the People's Republic of Bénin, The President of the Republic of Botswana, The President of the People's Front, Head of the State, Head of the Government of Burkina Faso, The President of the Republic of Burundi, The President of the Republic of Cameroon, The President of the Republic of Cape Verde, The President of the Central African Republic, The President of the Islamic Federal Republic of the Comoros, The President of the People's Republic of the Congo, The President of the Republic of the Côte d'Ivoire, The President of the Republic of Djibouti, The Government of the Commonwealth of Dominica, The President of the Dominican Republic, The President of the People's Democratic Republic of Ethiopia, The President of the Republic of Fiji, The President of the Gabonese Republic, The President of the Republic of the Gambia, The Head of State and Chairman of the Provisional National Defence Council of the Republic of Ghana, Her Majesty The Queen of Grenada, The President of the Republic of Guinea, The President of the Council of State of Guinea-Bissau, The President of the Republic of Equatorial Guinea, The President of the Co-operative Republic of Guyana, The President of the Republic of Haiti, The Head of State of Jamaica, The President of the Republic of Kenya, The President of the Republic of Kiribati, His Majesty The King of the Kingdom of Lesotho, The President of the Republic of Liberia, The President of the Democratic Republic of Madagascar, The President of the Republic of Malawi, The Chairman of the Military Committee for National Safety, Head of State of the Islamic Republic of Mauritania, Her Majesty The Queen of Mauritius, The President of the People's Republic of Mozambique, The President of the Supreme Military Council, Head of State of Niger, The Head of the Federal Government of Nigeria, The President of the Republic of Uganda, Her Majesty the Queen of Papua New Guinea, The President of the Rwandese Republic, Her Majesty The Queen of Saint Kitts and Nevis, Her Majesty The Queen of Saint Lucia, Her Majesty The Queen of Saint Vincent and the Grenadines, The Head of State of Western Samoa, The President of the Democratic Republic of São Tomé and Príncipe, The President of the Republic of Senegal, The President of the Republic of Seychelles, The President of the Republic of Sierra Leone, Her Majesty The Queen of the Solomon Islands, The President of the Somali Democratic Republic, The President of the Republic of the Sudan, The President of the Republic of Suriname, His Majesty The King of the Kingdom of Swaziland, The President of the United Republic of Tanzania, The President of the Republic of Chad, The President of the Togolese Republic, His Majesty King Taufa'ahau Tupou IV of Tonga, The President of the Republic of Trinidad and Tobago, Her Majesty The Queen of Tuvalu, The Government of the Republic of Vanuatu, The President of the Republic of Zaire, The President of the Republic of Zambia, The President of the Republic of Zimbabwe, whose States are hereinafter referred to as "ACP States",

of the other part,

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<sup>1</sup>Treaty Series No. 47 (1988), Cm 455.

meeting at Lomé, this fifteenth day of December in the year one thousand nine hundred and eighty-nine for the signature of the Fourth ACP-EEC Convention of Lomé have adopted the following texts:

the Fourth ACP-EEC Convention of Lomé,  
and the following Protocols:

Financial Protocol

- |            |   |
|------------|---|
| Protocol 1 | concerning the definition of the concept of "originating products" and methods of administrative co-operation   |
| Protocol 2 | on the operating expenditure of the joint Institutions  |
| Protocol 3 | on privileges and immunities  |
| Protocol 4 | on the implementation of Article 178  |
| Protocol 5 | on bananas  |
| Protocol 6 | on rum  |
| Protocol 7 | on beef and veal  |
| Protocol 8 | containing the text of Protocol 3 on ACP sugar appearing in the ACP-EEC Convention of Lomé signed on 28 February 1975 and the corresponding declarations annexed to that Convention |
| Protocol 9 | concerning products within the province of the European Coal and Steel Community  |

The plenipotentiaries of the Member States and of the Community and the plenipotentiaries of the ACP States have adopted the texts of the declarations listed below and annexed to this Final Act:

- |            |  |
|------------|--|
| Annex I    | Joint declaration on the accession of Haiti and the Dominican Republic to the Convention   |
| Annex II   | Joint declaration on Article 2 of the Convention: interdependence  |
| Annex IV   | Joint declaration on Article 5: human rights   |
| Annex V    | Joint declaration on ACP migrant workers and ACP students in the Community   |
| Annex VI   | Joint declaration on workers who are nationals of one of the Contracting Parties and are legally resident in a territory of a Member State or an ACP State |
| Annex VII  | Joint declaration on representation of regional organizations  |
| Annex VIII | Joint declaration on Article 39 on movements of hazardous waste or radioactive waste   |
| Annex IX   | Joint declaration on Article 39 on movements of hazardous waste and radioactive waste  |
| Annex XI   | Joint declaration on Article 50: available agricultural products   |
| Annex XII  | Joint declaration on the location of the Technical Centre for Agricultural and Rural Co-operation  |
| Annex XIII | Joint declaration on Article 76: Commodities Committee   |
| Annex XIV  | Joint declaration on Article 91: Centre for the Development of Industry (CDI)  |
| Annex XV   | Joint declaration on Article 92(2): Executive Board of the CDI   |

Annex XVI	Joint declaration on Article 127: United Nations Convention on a Code of Conduct for Liner Conferences
Annex XX	Joint declaration on the improved use of the trade and services development provisions
Annex XXII	Joint declaration on Article 141 on the ACP-EEC Foundation for Cultural Co-operation
Annex XXIII	Joint declaration on the definition of "appropriate technology"
Annex XXV	Joint declaration on copyright
Annex XXVI	Joint declaration concerning Articles 145 to 149 on the audiovisual area
Annex XXVII	Joint declaration on Articles 167 to 170: trade regime
Annex XXVIII	Joint declaration on sugar in the Portuguese market
Annex XXIX	Joint declaration on trade liberalization
Annex XXX	Joint declaration on Article 181
Annex XXXI	Joint declaration on accession of new Member States to the Community
Annex XXXII	Joint declaration on co-operation between ACP States and the neighbouring overseas countries and territories and French overseas departments
Annex XXXIII	Joint declaration on the presentation of the Convention to the General Agreement on Tariffs and Trade (GATT)
Annex XXXIV	Joint declaration on the arrangements governing access to the markets of the French overseas departments for products originating in the ACP States referred to in Article 168(2)
Annex XXXV	Joint declaration on products covered by the common agricultural policy
Annex XXXVI	Joint declaration on trade between the European Economic Community and Botswana, Lesotho and Swaziland
Annex XL	Joint declaration concerning agricultural products referred to in Article 168(2)(a)(ii)
Annex XLII	Joint declaration on ACP exports to the OCT
Annex XLIII	Joint declaration on statistical requirements (Article 199(2))
Annex XLIV	Joint declaration on ACP-EEC consultations in the event of the establishment of a system for the stabilization of export earnings at world level
Annex XLV	Joint declaration on Article 189(1)(b)
Annex XLVI	Joint declaration on Articles 210 and 211
Annex XLVII	Joint declaration on Article 189(3)
Annex XLIX	Joint declaration on Article 224(d)
Annex L	Joint declaration on debt
Annex LII	Joint declaration on Article 255
Annex LIII	Joint declaration on part Three, Title III, Chapter 3, Section 2
Annex LIV	Joint declaration on Article 294
Annex LV	Joint declaration on Articles 320, 321, 322, 323 and 327
Annex LVI	Joint declaration on Part Three, Title IV, Chapter 2

Annex LVII	Joint declaration on Article 362
Annex LXII	Joint declaration relating to Protocol 1 on Articles 175 and 177 of the Convention
Annex LXIII	Joint declaration relating to Protocol 1
Annex LXIV	Joint declaration on certain elements of Protocol 1
Annex LXV	Joint declaration relating to Protocol 1 on the origin of fishery products
Annex LXVIII	Joint declaration on Articles 1 and 2 of Protocol 2
Annex LXXIII	Joint declaration relating to Protocol 3 on Commission delegations
Annex LXXIV	Joint declaration relating to Protocol 5
Annex LXXVI	Joint declaration relating to Protocol 6
Annex LXXVII	Joint declaration relating to Protocol 7

The plenipotentiaries of the Member States and of the Community and the plenipotentiaries of the ACP States have also agreed to annex to this Final Act the declarations listed below:

Annex XVII	A. Declaration by the Community and the Member States on Articles 126, 127, 128, 130 and 131 B. Declaration by the ACP States on the declaration by the Community and its Member States on Articles 126, 127, 128, 130 and 131
Annex LX	A. Community declaration on the Financial Protocol B. ACP declaration on the Community declaration on the Financial Protocol

The plenipotentiaries of the ACP States have taken note of the declarations listed below and annexed to this Final Act:

Annex III	Community declaration on Article 2: the ACP States' sovereignty over their natural resources
Annex XIX	Community declaration on Articles 126(2), 127 and 128 relating to shipping
Annex XXI	Community declaration on Article 136(3)
Annex XXXVII	Community declaration on Article 174(2)(a)
Annex XXVIII	Community declaration on Article 177(3)
Annex XLI	Commission declaration on the management of the STABEX system
Annex XLVIII	Community declaration on Article 188
Annex LVIII	Declaration by the representative of the Government of the Federal Republic of Germany concerning the definition of German nationals
Annex LIX	Declaration by the representative of the Government of the Federal Republic of Germany concerning the application to Berlin of the Convention
Annex LXI	Community declaration on the Financial Protocol
Annex LXVI	Community declaration relating to Protocol 1 on the extent of territorial waters
Annex LXIX	Community declaration relating to Protocol 2

Annex LXX	Community declaration relating to Protocol 2
Annex LXXI	Community declaration relating to Protocol 3
Annex LXXII	Declaration by the Member States relating to Protocol 3
Annex LXXV	Community declaration relating to Protocol 5 (Geographical cover: Haiti and the Dominican Republic)
Annex LXXVIII	Community declaration relating to Protocol 7

The plenipotentiaries of the Member States and of the Community have taken note of the declarations listed below and annexed to this Final Act:

Annex X	ACP declaration on hazardous and nuclear and other radioactive waste
Annex XVIII	ACP declaration on Articles 126(2), 127 and 128 relating to shipping
Annex XXIV	Declaration by the ACP States on return or restitution of cultural property
Annex XXXIX	ACP declaration on Article 168
Annex LI	ACP declaration on debt
Annex LXVII	ACP declaration relating to Protocol 1 on the origin of fishery products

## ANNEX I

### **Joint declaration on the accession of Haiti and the Dominican Republic to the Convention**

Having examined the requests from Haiti and the Dominican Republic for accession to the ACP-EEC Convention, the Contracting Parties:

- having regard to Article 289 of the third ACP-EEC Convention;
- confirm that the geographical area of the Convention must remain restricted to the countries of Africa, the Caribbean and the Pacific;
- note that the requests from Haiti and the Dominican Republic come from the two countries:
  - which are geographically part of one of the three geographical areas covered by the Convention;
  - whose economic and production structures according to the criteria laid down in Article 289 of the third ACP-EEC Convention are comparable with those of the ACP States that are currently members of the Convention;
- confirm that the accession of Haiti and the Dominican Republic cannot therefore be considered as a precedent for States outside that area and that, for the purposes of the Convention, the Caribbean area includes only States of that area which are already members of the third ACP-EEC Convention, Hispaniola Island and the neighbouring OCT that have become or are in the process of becoming independent;
- agree to retain in the Convention the provisions of Articles 288 and 289 of the third ACP-EEC Convention, the latter Article being qualified by the above definition of the Caribbean area;
- note that the Dominican Republic has given a contractual undertaking not to request accession to the Protocol on ACP sugar and that this undertaking is the subject of exchanges of letters between that country and the Community and the ACP States respectively, annexed to the Protocol on ACP sugar;
- decide in favour of the requests by Haiti and the Dominican Republic for accession to the ACP-EEC Convention.

## ANNEX II

### **Joint declaration on Article 2 of the Convention: interdependence**

The Contracting Parties note that their co-operation is marked by the interdependence that characterizes their relations in various areas. The particularly close and lasting relations between the ACP States and the Community leads the Community to regard itself as committed to contributing to its partners' development with all the means available.

Moreover, co-operation is also based on the increasingly closely-linked evolutions of different societies and of their economies. Each is able to offer the other social, cultural and economic enrichment and opportunities in the short and long term.

This mutual contribution shall concern, notably, the development of external markets, access to natural resources, the rational management and exploitation of these resources, the twinning of objectives and efforts by counterparts from the two Parties in the context of decentralized co-operation and cultural exchanges, thereby furthering international understanding and peace:

The Parties shall each for its own part strive to root this notion of interdependence in public opinion.

## ANNEX III

### **Community declaration on Article 2: the ACP States' sovereignty over their natural resources**

The principle of the respect of the sovereignty of the partners includes the sovereignty of the ACP States over their natural resources and their right to the development and rational exploitation of the fishery resources and underwater mineral deposits in all waters within their jurisdiction.

So as to ensure effective exercise of that sovereignty, the Community declares its willingness to help the ACP States, using the means placed at their disposal by the Convention, rationally to exploit their resources for the well-being of their peoples. This contribution may in particular take the form of aid for the development and conversion of their production and trade structures as well as the supply of various forms of assistance, including information and scientific and technological equipment, with the fundamental aim of satisfying internal demand within the ACP States and the expansion of regional markets and other external markets.

## ANNEX IV

### **Joint declaration on Article 5: Human Rights**

The Contracting Parties proclaim their determination to work effectively for the eradication of apartheid which constitutes a violation of human rights and an affront to human dignity.

## ANNEX V

### **Joint declaration on ACP migrant workers and ACP students in the Community**

#### **I. ACP MIGRANT WORKERS IN THE COMMUNITY**

1. Each Community Member State and each ACP State will, in the framework of and in compliance with its respective general legislation, grant workers who are nationals of the other party legally carrying out an activity in its territory, and the members of their families residing with them, the fundamental freedoms as they derive from the general principles of international law.
2. The Community will develop its measures to support Member States' non-governmental organizations endeavouring to improve social and cultural facilities for workers who are ACP nationals (such as literacy campaigns and social welfare).
3. The Community is prepared to support, at the request of the ACP States concerned, the financing, within the framework and in accordance with the procedures for development finance co-operation, of programmes or projects to train ACP nationals returning to their countries and for their vocational integration in well-defined fields. These programmes may be implemented in the territory of the Community or of the ACP States with the co-operation of the industries concerned on both sides, concentrating on programmes or projects that would create jobs in the ACP States.
4. The ACP States will take the necessary measures to discourage irregular immigration of their nationals into the Community. The Community may provide them, at their request, with the technical assistance necessary to formulate and implement their national policies on the migration of their nationals.

#### **II. ACP STUDENTS IN THE COMMUNITY**

5. The Member States confirm that questions relating to the situation of ACP students within their territory and in particular to issues concerning access to education may be examined in the appropriate bilateral framework.



6. The Community will continue to encourage the training of ACP students in their country of origin or in another ACP State, in accordance with Article 151(4) of the Convention.

As regards the measures which the Community implements, it shall ensure that the training of ACP nationals carrying out their studies in the Member States is geared towards their vocational integration in their country of origin. For their part, the ACP States undertake to make efforts to programme effectively the vocational integration of their nationals sent to the Member States for training.

### III. PROVISION COMMON TO WORKERS AND STUDENTS

7. Without prejudice to national jurisdiction in this field, the Community and the ACP Group of States may each, as appropriate and where necessary, draw the attention of the Council of Ministers to matters relating to foreign workers or students in areas covered by the relevant declarations.

## ANNEX VI

### **Joint declaration on workers who are nationals of one of the Contracting Parties and are legally resident in a territory of a Member State or an ACP State**

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

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

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

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

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

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

## ANNEX VII

### **Joint declaration on representation of regional organizations**

Arrangements should be made by the ACP-EEC Council of Ministers so that regional organizations of ACP States may be represented, as observers, at sessions of the Council of Ministers and Committee of Ambassadors.

Request for such arrangements shall be examined by the Council of Ministers on a case-by-case basis.

## ANNEX VIII

### **Joint declaration on Article 39 on movements of hazardous waste or radioactive waste**

Keenly aware of the specific risks attaching to radioactive waste, the Contracting Parties will refrain from any practice of discharging such waste which would encroach upon the sovereignty of States or threaten the environment or public health in other countries. They attach the greatest importance to developing international co-operation to protect the environment and public health against such risks. They accordingly affirm their determination to play an active part in the work being done in the IAEA to produce an internationally approved code of good practice.

Until such time as a more precise definition is formulated in that framework, the term "radioactive waste" will be taken to mean any material for which no further use is envisaged and which contains or is contaminated by radionuclides of which the levels of radioactivity or the concentrations exceed the limits which the Community has set itself for protecting its own population in Article 4(a) and (b) of Directive 80/836 EURATOM, as last amended by Directive 84/467/EURATOM. As regards levels of radioactivity, these limits range from  $5 \times 10^3$  becquerel for nuclides of very high radiotoxicity to  $5 \times 10^6$  becquerel for those of low radiotoxicity. As regards concentrations, these limits are  $100 \text{ Bq.g}^{-1}$  and  $500 \text{ Bq.g}^{-1}$  for solid natural radioactive substances.

## ANNEX IX

### **Joint declaration on Article 39 on movements of hazardous waste and radioactive waste**

The Contracting Parties shall make every effort to sign and ratify as quickly as possible the Basle Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.

## ANNEX X

### **ACP declaration on hazardous and nuclear and other radioactive waste**

The ACP States are seriously concerned about environmental problems in general and the transboundary movement of hazardous, nuclear and other radioactive wastes in particular.

In interpreting and implementing the provisions of the third and fourth subparagraphs of Article 39(1) of the Convention, the ACP States have expressed their determination to be guided by the principles and the provisions of the OAU Resolution on the Control of Transboundary Movements of Hazardous Wastes and their Disposal in Africa as contained in Doc. AHG 182 (XXV).

## ANNEX XI

### **Joint declaration on Article 50 Available agricultural products**

The ACP Group of States and the Community agree to pursue their contacts regarding the supply of available agricultural products to individual ACP States as provided for in Article 50 of the Convention.

The two Parties agree to examine at the appropriate levels ways and means of taking greater account of the specific problems of ACP States in the system of refunds (especially as regards the arrangements for cereals) in the light of the work carried out by the experts' working party under the third ACP-EEC Convention.

A report on the examination carried out as provided for above will be presented to the Council of Ministers within a year of the signing of the Convention.

## ANNEX XII

### **Joint declaration on the location of the Technical Centre for Agricultural and Rural Co-operation**

1. The Contracting Parties recall that, with a view to ensuring the speedy establishment of the Technical Centre for Agricultural and Rural Co-operation and to avoid delaying the benefits that would accrue to the ACP States from the Centre's operations, it was agreed that the Centre should be situated provisionally in Wageningen, in the Netherlands.
2. The Contracting Parties undertake to examine as soon as possible the subject of location of the Centre in an ACP State, in the light of the experience gained in Wageningen and taking account of the infrastructure and working conditions required to guarantee the Centre's optimum efficiency in carrying out its assigned tasks. The results of the examination will in any case be presented before the expiry of the Convention with a view to a decision on the definitive location of the Centre.

## ANNEX XIII

### **Joint declaration on Article 76: Commodities Committee**

The Contracting Parties agree that in establishing the rules of procedure for the Commodities Committee due account shall be taken of the enlarged scope of the Committee provided for in Article 47 of the third ACP-EEC Convention and the need to increase its efficiency.

## ANNEX XIV

### **Joint declaration on Article 91 Centre for the Development of Industry (CDI)**

1. The Contracting Parties agree that for the appointment of the Director and the Deputy Director of the CDI, the principle of rotation between ACP and EEC nationals shall be institutionalized.

The principle of rotation shall apply after a period of five years, which will be the maximum duration of the term of office of the Director and Deputy Director appointed by the Committee on Industrial Co-operation.

In appointing the Director and Deputy Director, the two parties shall consult on the proposals to be made by either party taking cognizance of the joint nature of the CDI.

2. Each party shall propose to the Committee on Industrial Co-operation three persons as members of the Executive Board.

Wherever possible the members of the Executive Board will be chosen among the members of the Committee on Industrial Co-operation Advisory Council.

3. The authority of the Joint Executive Board *vis-à-vis* the management of the CDI shall be clearly set out in its statutes.

## ANNEX XV

### **Joint declaration on Article 92(2): Executive Board of the CDI**

The Contracting Parties agree that the ACP Secretariat and the General Secretariat of the Council of the European Communities shall attend the meetings of the Board.

## ANNEX XVI

### **Joint declaration on Article 127: United Nations Convention on a Code of Conduct for Liner Conferences**

In view of the importance of the United Nations Convention on a Code of Conduct for Liner Conferences and the desirability of its rapid implementation, the Contracting Parties invite the Member States of the Community and the ACP States who have an interest in shipping and who have not yet adhered to or ratified the Code to do so as soon as possible after signature of the Convention. In this respect, the Contracting Parties recognize that, when the Member States of the Community ratify the Code of Conduct or accede to it, they will do so in accordance with Regulation (EEC) No. 954/79 concerning the ratification by Member States of, or their accession to, the United Nations Convention on a Code of Conduct for Liner Conferences.

## ANNEX XVII

### **A. Declaration by the Community and the Member States on Articles 126, 127, 128, 130 and 131**

The Community and its Member States interpret the expression "Contracting Parties" as meaning on the one hand the Community and the Member States, or the Community, or the Member States, and on the other, the ACP States. The meaning to be attributed to this expression in each case is to be deduced from the relevant provisions of the Convention and from the corresponding provisions of the Treaty establishing the European Economic Community.

### **B. Declaration by the ACP States on the declaration by the Community and its Member States on Articles 126, 127, 128, 130 and 131**

The above declaration by the Community shall not prejudice the provisions of Article 1 of the Convention concerning the definition of Contracting Parties.

## ANNEX XVIII

### **ACP declaration on Articles 126(2), 127 and 128 relating to shipping**

The ACP States wish to reiterate the great importance they attach to shipping services as one of the major forces behind their economic development and the promotion of effective trade between them and the Member States of the Community.

Conscious of the need to ensure that ACP shipping industries are able to participate on an equitable basis in markets which are dominated by powerful international shipping companies, the ACP States reaffirm their view that the provisions of Articles 126(2), 127 and 128 of the Convention do not imply that such international companies can operate, either in or outside liner conferences, without constraint.

The spirit of the Convention requires that the principle of fair competition is not interpreted solely in favour of such companies, but also takes into account the right of ACP States to greater and fairer participation in all freight generated by their external trade and the need to facilitate the development of their industries.

While the provisions of Articles 86(2), 87 and 88 of the third ACP-EEC Convention are maintained in the Convention, the ACP States wish to reaffirm their determination to do everything possible within their power, in the context of the Convention, to ensure that any adverse effects on their maritime interests will in future be minimized, while ensuring at the same time that their participation in the bulk cargo shipping is greatly enhanced.

The ACP States also reiterate their view that regional shipping industries designed to consolidate regional co-operation and regional autonomy in sea transport shall develop their activities without undue economic pressure from third country shipping interests.

## ANNEX XIX

### **Community declaration on Articles 126(2), 127 and 128 relating to shipping**

The Community and its Member States acknowledge the importance of shipping services in the context of ACP economic development and the need to continue and develop co-operation in this field.

*The objective of co-operation set out in the Convention is inter alia to ensure the development of efficient and reliable shipping services by facilitating the active participation of all parties while acknowledging the aspirations of ACP States for greater participation in international shipping services.*

The rules of unrestricted access to the trade on a commercial basis as set out in Articles 126(2), 127 and 128 exclude restrictive and anti-competitive practices, affecting all shipping companies. The Community and its Member States reaffirm that these rules are designed to increase the competitiveness of shipping companies and thereby benefiting exporters and importers. The Community and its Member States further recall that competitive access to the bulk trade shall not be impaired.

Within this context the Community and its Member States repeat their desire to co-operate fully with the ACP States with a view to improving the efficiency of their shipping industry particularly in the framework of regional development and by way of joint ventures.

## ANNEX XX

### **Joint declaration on the improved use of the trade and services development provisions**

The ACP States and the Community reaffirm the need to give greater emphasis to the development of trade and services in the context of national and regional programmes of Community aid.

To this end, without prejudice to the importance of the development of trade in its own right, the ACP States and the Community shall take particular care in the context of establishing programmes, particularly in the fields of agricultural production, rural development and industrial co-operation, to ensure that sufficient weight is given to the need to include a commercial analysis and trade development element in overall programmes.

The Contracting Parties recognize the potential in developing export promotion or marketing techniques for the improvement of the export performance of the ACP States. In this regard, the Commission undertakes to co-operate with the ACP in the development,

at an early date, of a trade development project to be financed initially from the sixth European Development Fund. The objective is to establish a focal point in Brussels so as to act as a catalyst and driving force in stimulating promotional work and to identify factors which inhibit the effective use of the provisions of the Convention. To this end the services of qualified persons from ACP or Community sources with a background in ACP-EEC and international trade will be used to achieve these objectives.

#### ANNEX XXI

##### **Community declaration on Article 136(3)**

In respect of the payment of travel expenses and costs of transporting articles and goods that are to be exhibited on the occasion of participation in fairs and exhibitions, the Community agreed that, in the case of the least-developed ACP States, such expenses shall be paid direct, at the moment of travel and shipment, by the Commission Delegate in the State concerned.

#### ANNEX XXII

##### **Joint declaration on Article 141 on the ACP-EEC Foundation for Cultural Co-operation**

The Community will make a financial contribution available to the Foundation, as part of development finance co-operation, to enable it to discharge its function.

This financial support shall be granted on a multiannual basis to be determined under an Agreement Protocol to be concluded with the Commission, renewable in the light of the Foundation's achievements and taking account *inter alia* of the results achieved in the mobilization of external resources other than those provided under the Convention.

#### ANNEX XXIII

##### **Joint declaration on the definition of "appropriate technology"**

In the framework of the Convention, appropriate technology shall be such technology as:

- is appropriate in terms of labour, capital, operation and maintenance,
- is compatible with the physical environment and the local resource endowment,
- is accompanied by applicable or adaptable know-how,
- satisfies health and safety standards,
- is consistent with cultural and social characteristics of the populations,
- takes into account the social costs of its impact on local culture,
- does not impose a strain on scarce resources and
- is adjustable to the social and economic conditions.

#### ANNEX XXIV

##### **Declaration by the ACP States on return or restitution of cultural property**

1. The ACP States urge the Community and its Member States, insofar as they acknowledge the legitimate right of the ACP States to cultural identity, to promote the return or restitution of cultural property taken from ACP States and now found in Member States.

2. The ACP States call upon the Member States to recognize that in order to preserve and enrich their cultural identities, the ACP peoples concerned need to recover at least that cultural property which has special significance symbolically and religiously, in other words, culturally.
3. The ACP States call upon the Community and its Member States to help set up an inventory of cultural property from ACP States found in the territory of Community Member States, in public and quasi-public institutes.
4. The ACP States urge the Community and its Member States to facilitate access for ACP States to archives concerning the history and situation of ACP States which before independence had been under their trusteeship.
5. The ACP States request the Community to provide financial and technical assistance for appropriate training activities carried out notably in the preservation and protection of cultural property, including such assistance for the enactment of necessary legislation for that purpose.

## ANNEX XXV

### **Joint declaration on copyright**

The Contracting Parties acknowledge that promotion of copyright protection is an integral part of cultural co-operation, the aim of which is to enhance all forms of human expression. Furthermore, such protection is a prerequisite for nurturing and developing production, dissemination and publishing activities.

Consequently, the two Parties shall, in the context of ACP-EEC cultural co-operation, seek to promote and foster respect for copyright and related rights.

In this context, and in accordance with the rules and procedures laid down by the Convention, the Community may offer financial and technical support for disseminating copyright information, training economic operators in the protection of such rights and drafting national legislation for their better protection.

## ANNEX XXVI

### **Joint declaration concerning Articles 145 to 149 on the audiovisual area**

1. With a view to the completion of the Community single market, the establishment of the African Common Cultural Market and similar initiatives of the Caribbean and Pacific States, and taking into account the tremendous impact of new information and communications technologies (microelectronics, telematics, direct broadcasting by satellite and cable and high definition television) on the audiovisual area, the Contracting Parties agree:

- (a) to explore new forms of co-operation in order to take account of the challenge represented by the growing internationalization of the financing, production, distribution, marketing, training for and development of cultural industries;
- (b) to foster synergy, notably through joint productions designed to bring about greater participation in international audiovisual markets, with a view to mutual cultural enrichment and a better competitive position.

2. For its part, and by way of an extension to the implementation of the relevant provisions of the Convention on cultural and social co-operation, and in the spirit of intercultural dialogue, the Community undertakes:

- (a) to foster exchanges and dissemination of the cultural products of the ACP States and the Member States in order to promulgate a true image of their culture;
- (b) to stimulate and support initiatives of public and private organizations and institutions of the ACP States and the Community that help achieve the objectives set out above.

## ANNEX XXVII

### **Joint declaration on Articles 167 to 170: Trade regime**

The Contracting Parties recognize that amendments may need to be made to the provisions under the Convention for access for agricultural products in order to take account of the outcome of the Multilateral Trade Negotiations under the GATT.

## ANNEX XXVIII

### **Joint declaration on sugar in the Portuguese market**

1. The ACP and the EEC agree, as foreseen in the Protocol of Accession of Portugal to the third ACP-EEC Convention to continue under the appropriate provisions of the Convention and in particular Article 168(2)(c), the examination of requests made by the ACP States concerning increased preferential access to the Portuguese market for ACP sugar.
2. Having regard to the review of the supply situation on the Portuguese market in 1991, the Community, for its part, undertakes to consult the ACP States prior to taking any decision, bearing in mind the interests of all the traditional ACP suppliers to that market, and the request of the ACP States submitted to the Community before and after the accession of Portugal to the third ACP-EEC Convention and in the framework of the negotiations on the fourth ACP-EEC Convention.

## ANNEX XXIX

### **Joint declaration on trade liberalization**

The Contracting Parties note that the Community is conscious of the need to ensure, in the overall application of the Convention, the maintenance of the competitive position of the ACP States where their advantages on the Community market are affected by measures relating to general trade liberalization.

The Community declares its willingness, whenever ACP States bring to its attention any specific case, jointly to study specific appropriate action with a view to safeguarding the interests of the latter.

## ANNEX XXX

### **Joint declaration on Article 181**

The Contracting Parties agree that the consultations referred to in Article 181 should take place in accordance with the following procedures:

- (i) the two parties will provide all necessary and relevant information on the specific issue(s) in good time to enable an early initiation of the discussions, and in any event not later than one month after the request for consultation is received;
- (ii) the three-month consultation period will start from the date of receipt of this information. Within these three months, technical examination of such information shall be completed within one month, and joint consultations at the level of the Committee of Ambassadors shall be completed within two further months;
- (iii) if the conclusion arrived at is not mutually acceptable, the matter shall be referred to the Council of Ministers;
- (iv) in the event that no mutually acceptable solution is adopted by the Council of Ministers, the Council will decide what other steps should be taken in order to resolve the differences identified in the consultations.



## ANNEX XXXI

### **Joint declaration on accession of new Member States to the Community**

The Contracting Parties, recognizing that the accession of new Member States to the Community could result in a transitional imbalance of treatment of imports of ACP goods to the new Member State on the one hand and imports from the new Member State to particular ACP States on the other hand, declare that these transitional problems should find an equitable solution in the context of negotiations over the protocol of accession of the new Member State to the Convention. If the outcome of these negotiations is unsatisfactory to one or other party from the point of view of balance, then the Community will examine in close consultation with the ACP State or States affected, ways and means necessary to correct the imbalance.

## ANNEX XXXII

### **Joint declaration on co-operation between ACP States and the neighbouring overseas countries and territories and French overseas departments**

The Contracting Parties shall encourage greater regional co-operation in the Caribbean, the Pacific and the Indian Ocean involving ACP States and the neighbouring overseas countries and territories and French overseas departments.

The Contracting Parties call upon interested Contracting Parties to consult each other on the procedure for promoting such co-operation and, in this context, to take measures, in line with their respective policies and their specific situation in the region, which will permit initiatives in the economic field, including the development of trade, as well as in the social and cultural fields.

Where there are trade agreements involving French overseas departments, such agreements may provide for specific measures in favour of products from those departments.

Issues relating to co-operation in these different areas shall be brought to the attention of the Council of Ministers, so that it can be duly informed of the progress achieved.

## ANNEX XXXIII

### **Joint declaration on the presentation of the Convention to the General Agreement on Tariffs and Trade (GATT)**

The Contracting Parties will consult when the provisions of the Convention that relate to trade are presented and examined under the GATT.

## ANNEX XXXIV

### **Joint declaration on the arrangements governing access to the markets of the French overseas departments for products originating in the ACP States referred to in Article 168(2)**

The Contracting Parties reaffirm that Chapter 1 of Title 1 of Part Three and Title VI of Part Two of the Convention apply to the relations between the French overseas departments and the ACP States.

The Community shall have the right during the life of the Convention to amend, in the light of the economic development requirements of the French overseas departments, the arrangements governing access to the latter's markets for products originating in the ACP States referred to in Article 168(2).

When examining the possible application of this right, the Community will take into consideration the direct trade between the ACP States and the French overseas departments. Information and consultation procedures shall apply between the parties concerned in accordance with Article 181.

#### ANNEX XXXV

##### **Joint declaration on products covered by the common agricultural policy**

The Contracting Parties recognize that products covered by the common agricultural policy follow specific rules and regulations, in particular with regard to safeguard measures. The provisions of the Convention concerning the safeguard clause may be applied to these products only insofar as they are consistent with the specific nature of these rules and regulations.

#### ANNEX XXXVI

##### **Joint declaration on trade between the European Economic Community and Botswana, Lesotho and Swaziland**

Having regard to Part I(3) of Protocol 22 to the Act of 1972 concerning the conditions of accession and the adjustments to the Treaties, the Community recognizes, and the Governments of Botswana, Lesotho and Swaziland declare:

- that the three Governments undertake to apply, at the entry into force of the Convention, the same customs tariff treatment to imports originating in the Community as they apply to those originating in the other country of the customs union to which they adhere.
- that this undertaking should not prejudice the different methods which may exist for financing the three Governments' budgets in relation to imports originating in the Community and those originating in the other country of the customs union to which they adhere.
- that the three Governments undertake to ensure through the provisions of their customs systems, and particularly through the application of the rules of origin established under the Convention, that no trade deflection takes place to the detriment of the Community, as a result of their participation with the other country in the customs union to which they adhere.

#### ANNEX XXXVII

##### **Community declaration on Article 174(2)(a)**

While agreeing to the reproduction of the text of Article 9(2)(a) of the second ACP-EEC Convention in Article 174(2)(a), the Community reaffirms the interpretation of that text, namely that the ACP States shall grant to the Community treatment no less favourable than that which they grant to developed States under trade agreements where those States do not grant the ACP States greater preferences than those granted by the Community.

#### ANNEX XXXVIII

##### **Community declaration on Article 177(3)**

Were the Community to adopt the strictly necessary measures referred to in this Article, it would endeavour to seek those which, by reason of their geographical scope or the types of products concerned, would least disturb the exports of the ACP States.

## ANNEX XXXIX

### ACP declaration on Article 168

Conscious of the imbalance and the discriminatory effect resulting from the most-favoured-nation treatment applicable to products originating in the ACP States on the Community market under Article 168(2)(a)(ii), the ACP States reaffirm their understanding that the consultations provided for under this Article shall ensure that the ACP States' main exportable products benefit from treatment at least as favourable as that granted by the Community to countries enjoying the most-favoured-third-state treatment.

In addition similar consultations shall take place in cases where:

- (a) one or more ACP States show potentialities for one or more specific products for which preferential third states enjoy more favourable treatment;
- (b) one or more ACP States envisage exporting to the Community one or more specific products for which preferential third states enjoy more favourable treatment.

## ANNEX XL

### Joint declaration concerning agricultural products referred to in Article 168(2)(a)(ii)

The Contracting Parties have taken note that the Community intends to take the measures mentioned in the Annex, and which are laid down at the date of signing of the Convention, with a view to granting ACP States the preferential treatment provided for in Article 168(2)(a)(ii), for certain agricultural and processed products.

They have taken note that the Community declares that it will take all the measures required to ensure that the corresponding agricultural regulations are adopted in good time and that, wherever possible, they come into force at the same time as the interim arrangements which will be introduced after the expiry of the third ACP-EEC Convention.

### Import treatment applicable to agricultural products and foodstuffs originating in the ACP States

Common organization of market	Special treatment for the ACP States
<b>1. Beef and Veal</b>	
CN code	Exemption from customs duties for all products covered by the common organization of the market
0102 10 00	Where, in the course of a year, imports of beef and veal falling within CN codes 0201, 0202, 0206 10 95, 0206 29 91, 1602 50 10 and 1602 90 61 originating in an ACP State exceed a quantity equivalent to that of imports into the Community from 1969 to 1974 inclusive in which the greatest quantity of Community imports for the origin in question was recorded, plus an annual growth rate of 7%, exemption from customs duties on the products of that origin shall be partially or totally suspended
0102 90 10	
0102 90 31	
0102 90 33	
0102 90 35	
0102 90 37	
0201	
0202	
0206 10 91	
0206 10 95	
0206 10 99	In such case, the Commission shall report to the Council of Ministers of the European Communities, which, acting by a qualified majority on a proposal from the Commission, shall decide on the treatment to be applied to the imports concerned
0206 21 00	
0206 22 90	
0206 29 91	
0206 29 99	
0210 20	
0210 90 41	
0210 90 49	
0210 90 90	
1502 00 91	
1602 50 10	
1602 50 90	
1602 90 61	
1602 90 69	

<b>Common organization of market</b>	<b>Special treatment for the ACP States</b>
<b>2. Sheepmeat and Goatmeat</b>	
CN code	Exemption from customs duties for all products covered by the common organization of the market
0104	Non-application of third-country levy for:
0204	CN codes:
0206 80 99	(a) 0104 10 90
0206 90 99	0104 20 90
0210 90 11	(other than pure-bred breeding animals)
0210 90 19	(b) 0204
0210 90 60	0210 90 11
1502 00 99	0210 90 19
1602 90 71	(other than meat of domestic sheep). For this meat, reduction of 50% of the levy for an annual quota of 250 tonnes
1602 90 79	
<b>3. Poultrymeat</b>	
CN Code	Reduction of the third-country levy by 50% for:
0207	—Poultrymeat within the limits of an annual quota of 200 tonnes
1602 31	—Other prepared or preserved meat and poultry offal within the limits of an annual quota of 250 tonnes
1602 39	
<b>4. Dairy Products</b>	
CN code	Reduction of third-country levy by 50% for:
0402	—Milk and cream, concentrated or containing added sugar within the limits of a quota of 500 tonnes
0406	—Cheese and curd within the limits of an annual quota of 500 tonnes
<b>5. Pigmeat</b>	
CN code	Reduction of the third-country levy by 50% within the limits of an annual quota of 250 tonnes for:
1601 00	—Sausages and similar products of meat, meat offal or blood
<b>6. Fishery Products</b>	
CN code	Exemption from customs duties for all products covered by the common organization of the market
03	
0511 91 90	
1604	
1605	
1902 20 10	
2301 20 00	
<b>7. Sugar</b>	
CN code	Reduction of the third-country levy by ECU 0.5/100 kg within the limits of an annual quota of 600 000 tonnes for:
1703	—molasses
<b>8. Oil Seeds and Oleaginous Fruit</b>	
CN code	Exemption from customs duties for all products covered by the common organization of the market
1201 00 90	
1202 10 90	
1202 20 00	
1203 00 00	
1204 00 90	
1205 00 90	
1206 00 90	
1207 10 90	
1207 20 90	
1207 30 90	
1207 40 90	
1207 50 90	

**Common organization of  
market**

**Special treatment for the ACP States**

1207 60 90  
1207 91 90  
1207 92 90  
1207 99 91  
1207 99 99  
1208  
1504  
1507  
1508  
1509 90 00  
1510 00 90  
1511  
1512  
1513  
1514  
1515 11 00  
1515 19  
1515 21  
1515 29  
1515 50  
1515 90 21  
1515 90 29  
1515 90 31  
1515 90 39  
1515 90 40  
1515 90 51  
1515 90 59  
1515 90 60  
1515 90 91  
1515 90 99  
1516 10  
1516 20 91  
1516 20 99  
1517 10 90  
1517 90 91  
1517 90 99  
1518 00 31  
1518 00 39  
1522 00 91  
1522 00 99  
2304 00 00  
2305 00 00  
2306 10 00  
2306 20 00  
2306 30 00  
2306 40 00  
2306 50 00  
2306 60 00  
2306 90 91  
2306 90 93  
2306 90 99

**9. Cereals**

CN code

Reduction of third-country levy by ECU 1.81/tonne

0707 90 60 Maize  
0712 90 19  
1005 10 90  
1005 90 00

1007 00 Grain sorghum

Reduction of third-country levy by 60% within the limits of an annual quota of 100 000 tonnes  
Further reduction of 50% above this quota

1008 20 00 Millet

Non-application of the third-country levy within the limits of an annual quota of 60 000 tonnes and reduction of the third-country levy by 50% beyond that quota

**Common organization of market****Special treatment for the ACP States****10. Rice**

CN code		In compliance with common rules, reduction of the third-country levy per 100 kg:
1006 10 21	Paddy rice	—for paddy rice
to 1006 10 98		by 50% and ECU 0.36
1006 20	Husked rice	—for husked rice by 50% and ECU 0.36
1006 30	Milled rice	—for wholly milled rice = by the component for the protection of the processing industry = by 50% and ECU 0.54 —for semi-milled rice = by the component for the protection of the processing industry converted on the basis of the conversion rate for wholly milled rice and semi-milled rice = by 50% and ECU 0.54
1006 40 00	Broken rice	—for broken rice by 50% and ECU 0.30

This exception is valid only if a charge of an equivalent amount is levied at the time of export by the ACP State concerned

Should 125 000 tonnes (husked rice equivalent) of rice (1006 10 21 to 1006 10 98, 1006 20 and 1006 30) and 20 000 tonnes of broken rice (1006 40 00) be exceeded, the general third-country arrangement shall apply

**11. Cereal Substitutes and Processed Cereal and Rice Products**

CN code	Non-application of the fixed component of the third-country levy or the customs duty for all products covered by the common organization of the market
0714	In addition, reduction of the variable component of the levy per 100 kg:
1102 20	—by ECU 0.181 for 0714 10 91, 0714 10 99, 0714 90 11 and 0714 90 19 (manioc, salep and other similar roots and tubers with high starch content other than arrow-root)
1102 30 00	
1102 90	
1103 12 00	—by ECU 0.363 for 0714 10 10 and ex 1106 20 (flours and meal of sago and of manioc, salep and other roots and tubers falling within CN code 0714, other than arrow-root flour and meal)
1103 13	
1103 14	
1103 19	
1103 29	—by 50% for ex 1108 14 00 and ex 1108 19 90 (starches, other than arrow-root starches)
1104	
1106 20	Non-application of the variable component of the third-country levy for roots, flour, meal and starch of arrow-root falling within CN codes ex 0714 10, ex 0714 90 11, ex 1106 20 10, ex 1106 20 91 and ex 1106 20 99
1107	
1108 (excluding 1108 20 00)	
1109 00 00	
1702 30 91	Non-application of the variable component for products falling within CN codes 0714 10 91 and 0714 90 11 (including yams) other than arrow-root
1702 30 99	
1702 40 90	
1702 90 50	
1702 90 75	
1702 90 79	
2106 90 55	
2302 10	
2302 20	
2302 30	
2302 40	
2303 10	
2303 30 00	
2308 10 00	
2308 90 30	
2309 10 11	
2309 10 13	
2309 10 31	
2309 10 33	
2309 10 51	
2309 10 53	
2309 90 31	

**Common organization of market****Special treatment for the ACP States**

2309 90 33  
2309 90 41  
2309 90 43  
2309 90 51  
2309 90 53

**12. Fresh or Chilled Fruit and Vegetables**

CN code	Exemption from customs duties without marketing timetable for:
ex 0706 90 90	Radishes ( <i>Raphanus sativus</i> ), known as "mooli"
0708	Leguminous vegetables
0709 30 00	Aubergines (egg-plants)
0709 40 00	Celery other than celeriac
0709 60 10	Sweet peppers
0709 90 70	Courgettes
0709 90 90	Other vegetables
0802 50 00	Pistachios
0802 90 10	Pecans
0802 90 90	Other nuts
0805 40 00	Grapefruit
0805 30 90	Limes ( <i>Citrus aurantifolia</i> )
0805 90 00	Other citrus fruit
0807 10	Melons (including watermelons)
0807 20 00	Pawpaws
0810 40 30	Fruit of the species <i>Vaccinium myrtillus</i>
0810 90	Other fresh fruit
	Progressive abolition or reduction of customs duties
ex 0702 00 10	Tomatoes (other than cherry tomatoes) from 15 November to 30 April: reduction of the duty by 60% within the limits of a quota of 2 000 tonnes
ex 0702 00 10	Cherry tomatoes from 15 November to 30 April: progressive abolition of customs duties within the limits of a quota of 2 000 tonnes
ex 0703 10 19	Onions from 1 February to 15 May: progressive abolition of the customs duty in the framework of a reference quantity of 800 tonnes
ex 0703 20 00	Garlic from 1 February to 31 May: progressive abolition of the customs duty in the framework of a reference quantity of 500 tonnes
ex 0704 90 90	Chinese cabbage: progressive abolition of the customs duty from 1 November to 31 December in the framework of a reference quantity of 1 000 tonnes
ex 0705 11 10	Iceberg lettuce: progressive abolition of the customs duty from 1 July to 31 October in the framework of a reference quantity of 1 000 tonnes
ex 0706 10 10	Carrots: progressive abolition of the customs duty from 1 January to 31 March in the framework of a reference quantity of 800 tonnes
0706 90 30	Horse-radish: progressive abolition of the customs duty
ex 0706 90 90	Salad beetroot: progressive abolition of the customs duty in the framework of a reference quantity of 100 tonnes
ex 0707 00 11 and ex 0707 00 19	Small winter cucumbers: progressive abolition of the customs duty in the framework of a reference quantity of 100 tonnes
ex 0709 10 00	Artichokes: progressive abolition of the customs duty from 1 October to 31 December in the framework of a reference quantity of 1 000 tonnes
ex 0709 20 00	Asparagus: —progressive abolition of the customs duty from 15 August to 15 January —Forty per cent reduction from 16 January to 31 January

**Common organization of market****Special treatment for the ACP States**

0709 51 90	Other mushrooms: progressive abolition of the customs duty
0802 31 00 and 0802 32 00	Walnuts (in shell or shelled): progressive abolition of the customs duty in the framework of a reference quantity of 700 tonnes
ex 0804 20 10	Figs (fresh): progressive abolition of the customs duty from 1 November to 30 April within the limits of a quota of 200 tonnes
0805 10	Oranges: —progressive abolition of the customs duty from 15 May to 30 September in the framework of a reference quantity of 25 000 tonnes —above this quantity and throughout the year an 80% reduction of the customs duty
0805 20	Mandarins (including tangerines and satsumas); clementines, wilkings and other similar citrus hybrids: —progressive abolition of the customs duty from 15 May to 30 September in the framework of a reference quantity of 4 000 tonnes —above this quantity and throughout the year an 80% reduction of the customs duty
0808 10	Apples: progressive reduction of the customs duty by 50% within the limits of a quota of 1 000 tonnes
ex 0808 20	Pears: progressive reduction of the customs duty by 50% within the limits of a quota of 1 000 tonnes
ex 0809 10 00	Apricots: progressive abolition of the customs duty from 1 September to 30 April in the framework of a reference quantity of 2 000 tonnes
ex 0809 20 90	Cherries: progressive reduction of the customs duty from 1 November to 31 March in the framework of a reference quantity of 2 000 tonnes
ex 0809 30 00	Peaches, including nectarines: progressive reduction of the customs duty from 1 December to 31 March in the framework of a reference quantity of 2 000 tonnes
ex 0809 40 19	Plums: progressive reduction of the customs duty from 15 December to 31 March in the framework of a reference quantity of 2 000 tonnes
0809 40 90	Sloes: progressive abolition of the customs duty in the framework of a reference quantity of 500 tonnes
ex 0810 10 90	Strawberries: progressive abolition of the customs duty from 1 November to end February in the framework of a reference quantity of 1 500 tonnes
0813 50 30	Mixtures exclusively of nuts of heading Nos.0801 and 0802: progressive abolition of the customs duty
0810 40 50	Reduction of the customs duty to the following levels: —3% for fruit of the species <i>Vaccinium macrocarpon</i> and <i>Vaccinium corymbosum</i>
0810 40 90	—5% for other fruits of the <i>Vaccinium</i> species

*NB:* The progressive abolition or reduction of customs duties will take place in the same periods and following the same timetables as those provided for in the Act of Accession of Spain and Portugal for the same products exported by these countries to the Community in its composition at 31 December 1985.

**13. Processed Fruit and Vegetable Products**

CN code	Exemption from customs duties for all products covered by the common organization of the market
ex 0710 (other than 0710 40 00, 0710 80 10 and 0710 80 59)	
ex 0711 (other than 0711 20, 0711 90 10 and 0711 90 30)	
ex 0712 (other than 0712 10 00, 0712 90 11, 0712 90 19 and 0712 90 90)	



**Common organization of market**

**Special treatment for the ACP States**

0804 20 90  
 0806 20  
 0811  
 0812  
 0813 10 00  
 0813 20 00  
 0813 30 00  
 0813 40  
 0813 50 11  
 0813 50 19  
 0813 50 91  
 0813 50 99  
 0814 00 00  
 0904 20 10  
 ex 1302 20  
 2001 10 00  
 2001 20 00  
 2001 90 10  
 2001 90 50  
 2001 90 90  
 2002  
 2003  
 2004 10 10  
 2004 10 99  
 2004 90 30  
 2004 90 50  
 2004 90 91  
 2004 90 95  
 2004 90 99 (other than olives)  
 ex 2005 (other than 2005 70 00,  
 2005 80 00 and 2005 90 10)  
 2006 00  
 2007  
 2008 (other than 2008 11 10,  
 2008 91 00, 2008 99 85,  
 2008 99 91 and 2008 99 99)  
 ex 2009 (other than 2009 60)

In addition, non-levying of the additional duty on sugar for the following products:

Jams, fruit jellies, marmalades, fruit or nut purée and fruit or nut pastes, being cooked preparations:

- Homogenized preparations
  - Jams, fruit jellies, marmalades, fruit or nut purée and fruit or nut pastes (other than citrus fruit)
- 2007 10 10  
 2007 99 10  
 2007 99 20  
 2007 99 31  
 2007 99 32  
 2007 99 33  
 2007 99 35  
 2007 99 39  
 2007 99 51  
 2007 99 59

Fruit, prepared or preserved, whether or not containing added sugar or spirit:

- Pineapples
  - Grapefruit segments
  - Pears
  - Strawberries
  - Mixtures of pineapple, pawpaw and pomegranate
  - Grapes
  - Plums
  - Passionfruit, guava and tamarinds
  - Grapefruit juice
  - Pineapple juice
  - Passionfruit and guava juice
  - Mixtures of pineapple, pawpaw and pomegranate juices
- ex 2008 20  
 ex 2008 30  
 ex 2008 40  
 ex 2008 80  
 ex 2008 92  
 ex 2008 99  
 2009 20 11  
 2009 20 91  
 ex 2009 40  
 ex 2009 80  
 ex 2009 90

**Common organization of market**

**Special treatment for the ACP States**

**14. Wine**

CN code  
2009 60  
2204 30 91  
2204 30 99

Exemption from customs duties for:  
Unfermented grape juice (including grape must)

**15. Unmanufactured Tobacco**

CN code  
2401

Exemption from customs duties  
If serious disruptions occur as a result of a large increase in duty-free imports of unmanufactured tobacco (2401) originating in the ACP States, or if these imports create difficulties which result in deterioration of the economic situation of a region of the Community, the Commission may take, or may authorize the Member State or States concerned to take, the necessary safeguard measures pursuant to Article 177(1) of the Convention, including measures to offset deflection of trade

**16. Certain Goods Resulting from the Processing of Agricultural Products**

CN code

Exemption from the fixed component for the entire sector of products processed from agricultural products (Regulation (EEC) No. 3033/80)

0403 10 51 to  
0403 10 99  
0403 90 71 to  
0403 90 99  
0710 40 00  
0711 90 30  
1517 10 10  
1517 90 10  
1702 50 00  
1704 (other than 1704 90 10)  
1806  
1901  
1902 (other than 1902 20 10  
and 1902 20 30)  
1903  
1905  
1905  
2001 90 30  
2001 90 40  
2004 90 10  
2005 80 00  
ex 2005 90 90 Sweet corn (*Zea  
mays* var. *saccharata*)  
2008 99 85  
2008 99 91  
2101 30 19  
2101 30 99  
2102 10 31  
2102 10 39  
2105  
2106 (other than 2106 10 10  
and 2106 10 91)  
2202 90 91  
2202 90 95  
2202 90 99  
2905 43 00  
2905 44  
3501 (other than 3501 90 10)  
3505 10 (other than 3505 10 50)  
3505 20  
3809 10  
3823 60

**Common organization of market****Special treatment for the ACP States**

		In addition, suspension of the variable component for: 1702 50 00—Chemically pure fructose
		Sugar confectionery (including white chocolate) not containing cocoa
1704 90 30		—White chocolate
		Chocolate and other food preparations containing cocoa:
1806 20		—Preparations in block slabs or bars weighing more than 2 kg or in liquid, paste, powder, granular or other bulk form in containers or immediate packings, of a content exceeding 2 kg; excluding those falling within CN code 1806 20 70
1806 31 00		—Other, in blocks, slabs or bars filled or unfilled
1806 32		
1806 90 11		—Other chocolate and chocolate products and sugar confectionery and substitutes therefor made from sugar substitution products containing cocoa
1806 90 19		
1806 90 31		
1806 90 39		
1806 90 50		
1901		Malt extract, food preparations of flour, meal, starch or malt extract, not containing cocoa powder or containing cocoa powder in a proportion by weight of less than 50%, not elsewhere specified or included; food preparations of goods of CN codes Nos. 0401 to 0404, not containing cocoa powder or containing cocoa powder in a proportion by weight of less than 10%, not elsewhere specified or included (other than CN codes 1901 90 11 and 1901 90 90) not containing milk fats or containing milk fats in a proportion by weight of less than 1.5%, containing 50% or more but less than 75% by weight of starches
1903 00 00		Tapioca and substitutes therefor prepared from starch, in the form of flakes, grains, pearls, siftings or similar forms
1905		Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products:
ex 1905 30		Sweet biscuits; waffles and wafers
		—Biscuits
ex 1905 40 00		—Rusks, toasted bread and similar toasted products other than ships' biscuits
ex 1905 90		—Other:
		—Biscuits
2008 99 85		Maize (corn), otherwise prepared or preserved, not containing added sugar or spirit, other than sweet corn ( <i>Zea mays</i> var. <i>saccharata</i> )

**17. Special Arrangements for Importing Certain Agricultural Products Originating in the ACP States or the OCT into the French Overseas Departments**

CN code		Non-application of the third-country levy
0102 90 10	Live animals of the	
0102 90 31	domestic bovine	
0102 90 33	species, other than	
0102 90 35	pure-bred	
0102 90 37	breeding animals	
0201	Meat of bovine	Non-application of the third-country levy
0202	animals, fresh,	
0206 10 95	chilled or frozen	
0206 29 91		
0709 90 60		Non-application of the third-country levy. Necessary measures
0712 90 19		Against disturbances of the Community market should imports exceed
1005 10 90	Maize	25 000 tonnes per annum
1005 90 90		
0714 10 91	(including yams)	Non-application of the third-country levy within the limits of an
0714 90 11		annual quota of 2 000 tonnes

**18. Special Arrangements for Imports of Rice into Reunion***Non-application of the third-country levy*

## ANNEX XLI

### STABEX

#### **Commission declaration on the management of the system**

For the purpose of ensuring appropriate transparency in the implementation of the system, the Commission confirms that, in support of the report referred to in Article 207(4), it will provide the ACP Committee of Ambassadors with all additional relevant information that may be requested.

## ANNEX XLII

### STABEX

#### **Joint declaration on ACP exports to the OCT**

For the application of Article 189(1)(b) and (2), ACP exports to the OCT shall be taken into consideration.

## ANNEX XLIII

### STABEX

#### **Joint declaration on statistical requirements (Article 199(2))**

1. For the first year of application, the ACP States shall notify the Commission of:
  - (a) the value of their exports of all goods to all destinations for the year preceding the year of application;
  - (b) the volume of marketed production of the product or products in question during the reference period and in the year of application;
  - (c) the volume and the value of exports of the product or products in question to all destinations in the reference period and in the year of application. The ACP States to which Article 189(2) is applicable shall also notify the Commission of the volume of their exports of the product or products in question to other ACP States during the reference period and in the year of application;
  - (d) the volume and the value of exports of the product or products in question to the Community during the reference period and in the year of application.
2. In subsequent years of administration of the system, the statistical requirements referred to above shall refer only to the year not covered by the information provided in the previous year.

## ANNEX XLIV

### STABEX

#### **Joint declaration on ACP-EEC consultations in the event of the establishment of a system for the stabilization of export earnings at world level**

The Contracting Parties agree to concert action in the context of the Convention in order to avoid any double compensation in the event of a world system for the stabilization of export earnings being established during the period of application of the Convention.

## ANNEX XLV

### STABEX

#### **Joint declaration on Article 189(1)(b)**

The Contracting Parties agree that the decisions taken pursuant to Article 27 of the second ACP-EEC Convention in favour of coconuts and coconut oil as regards exports from Dominica and in favour of cowpeas (*Vigna unguiculata*) as regards exports from Niger shall continue to apply.

## ANNEX XLVI

### STABEX

#### **Joint declaration on Articles 210 and 211**

The Contracting Parties agree to adopt the simplest possible procedures for the application of Article 210 and Article 211(2) and (3) with a view to making transfers available to the ACP States as swiftly as possible.

## ANNEX XLVII

### STABEX

#### **Joint declaration on Article 189(3)**

The Contracting Parties agree that, without prejudice to the provisions of Article 189(3), the ACP States listed in Annex XXI to the third ACP-EEC Convention will continue to benefit from the "all destinations" derogation for an interim period of three years.

The Contracting Parties further agree that before the end of the interim period referred to in the first paragraph the Council of Ministers shall review the situation of these countries, notably in the light of trends in their exports of the products covered by the STABEX system recorded in the intervening period.

## ANNEX XLVIII

### STABEX

#### **Community declaration on Article 188**

The Community hereby takes note of the requests made by the ACP States during the negotiations concerning cottonseed oil, chamois leather and live bovine animals, sheep and goats.

It declares its readiness to examine these requests in the framework of the provisions referred to in Article 188, as soon as substantial supporting documents are provided.

## ANNEX XLIX

#### **Joint declaration on Article 224(d)**

The choice of instruments in support of structural adjustment as well as the modalities for constituting counterpart funds shall take due account of the monetary arrangements of ACP States within the framework of the monetary zone to which they belong.

## ANNEX L

### Joint declaration on debt

Given the seriousness of the international debt problem and its impact on economic growth, the Community declares its readiness to continue to exchange views, within the context of international discussions, on the general problem of debt, and without prejudice to specific discussions taking place in the relevant fora.

## ANNEX LI

### ACP declaration on debt

1. The ACP States welcome the positive response of the Community to the concern expressed over the debt situation, and note the tangible steps that have been taken in helping to attenuate the debt burden. They welcome:

- (a) the decision to remove special loans in the Convention;
- (b) the decision to waive the requirement of restitution with respect to STABEX;
- (c) the new SYSMIN arrangements; and
- (d) the improved terms and conditions associated with risk capital and loans from the European Investment Bank.

2. Noting the gravity of the debt problem, the ACP States strongly urge the Community in the spirit of paragraph 1 to go further and to:

- (a) cancel all debt, already committed by way of special loans, to the Community;
- (b) convert into grants all special loans not already committed;
- (c) waive outstanding repayments in respect of STABEX replenishments and those associated with the SYSMIN facility.

## ANNEX LII

### Joint declaration on Article 255

The Contracting Parties agree that, in the implementation of Article 255, particular attention should be given to the following:

- (i) projects that assist the voluntary repatriation and reintegration of refugees;
- (ii) the cultural identity both of refugees in host countries and displaced persons within their own countries;
- (iii) the needs of women, children, the aged or the handicapped among refugees or displaced persons;
- (iv) creating a greater awareness of the role that assistance under Article 255 can play in meeting the longer-term developmental needs of refugees, returnees and displaced persons and of the population of the host regions;
- (v) closer co-ordination between the ACP States, the Commission and other agencies in the implementation of these projects.

## ANNEX LIII

### **Joint declaration on Part Three, Title III, Chapter 3, Section 2**

1. With a view to facilitating the negotiation of bilateral agreements on investment promotion and protection, the Contracting Parties agree to study the main clauses of a model protection agreement.

The study, drawing on the provisions of the existing bilateral agreements between the States Parties, will give particular attention to the following issues;

- (i) legal guarantees to ensure fair and equitable treatment and protection of foreign investors;
  - (ii) the most-favoured-investor clause;
  - (iii) protection in the event of expropriation and nationalization;
  - (iv) the transfer of capital and profits, and
  - (v) international arbitration in the event of disputes between investor and host State.
2. The Contracting Parties agree to study the capacity of the guarantee systems to give a positive answer to the specific needs of SMEs of insuring their investments in ACP States.
3. The studies referred to above shall be started as soon as possible after the signing of the Convention. The result of these studies shall be submitted upon completion to the ACP-EEC Development Finance Co-operation Committee for consideration and appropriate action.

## ANNEX LIV

### **Joint declaration on Article 294**

The definition of the concept of "originating" products for the purpose of implementing Article 294 will be assessed by reference to the relevant international agreements.

## ANNEX LV

### **Joint declaration on Articles 320, 321, 322, 323 and 327**

In order to assist the ACP-EEC Development Finance Co-operation Committee, the Commission and the ACP General Secretariat shall prepare and implement the joint monitoring and evaluation operations and report to the Committee in accordance with Article 327 of the Convention. The Committee shall, at its first meeting after the signature of the Convention, fix the operational modalities aimed at ensuring the joint character of the operations and shall, on a yearly basis, approve the work programme referred to in Article 325.

## ANNEX LVI

### **Joint declaration on Part Three, Title IV, Chapter 2**

Notwithstanding the fact that Zaire, by reason of its geography, is not listed among the landlocked ACP States, the Community and the ACP States have nevertheless recognized the particular problems and constraints which this State faces in view of the difficulties resulting from the inadequate access routes to the sea and to the lack of adequate infrastructure to provide an outlet on its own seaboard.

During the lifetime of the Convention, the Community undertakes to examine any request which might be put forward by the Zaire authorities and help them in their efforts to overcome the difficulties and constraints which this country experiences in the fields of transport, transit and the development of its exports, in the same positive spirit and special perspective which govern the application of the provisions of the Convention relating to landlocked ACP States.

## ANNEX LVII

### **Joint declaration on Article 362**

The Community and the ACP States are prepared to allow the countries and territories referred to in Part Four of the Treaty which have become independent to accede to the Convention, if they wish to continue their relations with the Community in this form.

## ANNEX LVIII

### **Declaration by the representative of the Government of the Federal Republic of Germany concerning the definition of German nationals**

Wherever the Convention refers to the nationals of the Member States, this expression shall mean, in the case of the Federal Republic of Germany, "Germans within the meaning of the basic law for the Federal Republic of Germany".

## ANNEX LIX

### **Declaration by the representative of the Government of the Federal Republic of Germany concerning the application to Berlin of the Convention**

The Convention shall apply equally to Land Berlin, insofar as the Government of the Federal Republic of Germany does not make a declaration to the contrary to the other Contracting Parties within a period of three months from the entry into force of the Convention.

## ANNEX LX

### **A. Community declaration on the Financial Protocol**

The Community declares that the amount of ECU 12000 million in financial assistance referred to in the Financial Protocol shall cover all ACP States which have participated in the negotiations on the Convention or which are the subject of Article 364, whatever the date of their accession.

### **B. ACP declaration on the Community declaration on the Financial Protocol**

The ACP States accept the Community's offer and take due note of its declaration above.

## ANNEX LXI

### **Community declaration on the Financial Protocol**

The amounts indicated in the Financial Protocol to cover all the financial resources placed at the disposal of the ACP States by the Community are expressed in ecus as defined by Council Regulation (EEC) No 3180/78 of 18 December 1978, as amended by Council Regulation (EEC) No 1971/89 of 19 June 1989 or, where appropriate, by a later Council Regulation defining the composition of the ecu.



## ANNEX LXII

### **Joint declaration relating to Protocol 1 on Articles 175 and 177 of the Convention**

If special tariff treatment were to be applied by the ACP States to imports of products originating in the Community, including the Canary Islands, Ceuta and Melilla, the provisions of Protocol 1 would apply *mutatis mutandis*. In all other cases where the treatment applied to imports by the ACP States necessitates the provision of proof of origin, those States shall accept certificates of origin drawn up in accordance with the relevant international agreements.

## ANNEX LXIII

### **Joint declaration relating to Protocol 1**

1. For the purposes of applying Article 10(2)(c) of the Protocol, the shipping certificate, issued in the first port of embarkation for the Community, shall be equivalent to the through bill of lading for products covered by movement certificates issued in landlocked ACP States.
2. Products exported from landlocked ACP States which are warehoused elsewhere than in the ACP States or the countries and territories referred to in Annex III to the Protocol may be the subject of movement certificates issued under the circumstances referred to in Article 13 thereof.
3. For the purposes of Article 12(6) of the Protocol, certificates EUR. 1 issued by a competent authority and endorsed by the customs authorities will be accepted.
4. In order to help ACP enterprises in their efforts to find new sources of supply with a view to benefiting to the maximum extent from the provisions of the Protocol as regards cumulation of origin, steps will be taken to ensure that the Centre for the Development of Industry provides assistance to ACP operators in the establishment of appropriate contacts with suppliers in the ACP States, the Community and the countries and territories, as well as to promote relations in the field of industrial co-operation among the operators concerned.

## ANNEX LXIV

### **Joint declaration on certain elements of Protocol 1**

1. The Contracting Parties call for an expeditious response to requests for verification made by the authorities of the Member States of the Community.
2. The Contracting Parties reaffirm that the rules in the list in Annex II to Protocol 1 should not cause any harm to the preferential trade conditions applicable before the adoption of Decision No 1/89 of the ACP-EEC Council of Ministers. Where the rules of origin set down in the list alter the rules in place prior to Decision No 1/89, and it appears that such alteration results in a situation prejudicial to the interests of the sectors concerned, then, if one of the Contracting Parties so requests in the period up to 31 December 1993, the ACP-EEC Customs Co-operation Committee shall examine, as a matter of urgency, the way to restore the substance of the rule as it was before Decision No 1/89.

In any case, the Committee shall take a decision within a period of three months of the request being made to it.

The parties to the Convention shall provide the legal framework necessary to ensure that any customs duties improperly levied on the products concerned imported after 1 January 1990 are reimbursed.

3. The Contracting Parties agree that a manual on the rules of origin for the use of officials and of trade operators concerned shall be established as soon as possible.

They also agree that, in addition, information seminars on the rules of origin will be held within the framework of development finance co-operation.

## ANNEX LXV

### **Joint declaration relating to Protocol 1 on the origin of fishery products**

The Community acknowledges the right of the coastal ACP States to the development and rational exploitation of the fishery resources in all waters within their jurisdiction.

The Contracting Parties agree that the existing rules of origin have to be examined in order to determine what possible changes may have to be made in the light of the first paragraph.

Conscious of their respective concerns and interests, the ACP States and the Community agree to continue examining the problem posed by the entry, onto Community markets, of fishery products from catches made in zones within the national jurisdiction of the ACP States, with a view to arriving at a solution satisfactory to both sides. This examination will take place in the Customs Co-operation Committee, assisted, when necessary, by the appropriate experts, after entry into force of the Convention. The results of this examination shall be submitted, within the first year of application of the Convention, to the Committee of Ambassadors and, at the latest during the second year, to the Council of Ministers for their consideration with a view to arriving at a solution satisfactory to both sides.

For the time being, as regards the processing of fishery products in the ACP States, the Community declares that it is willing to examine with an open mind requests for derogations from the rules of origin for processed products in this production sector based on the existence of compulsory landing requirements provided for in fishery agreements with third countries. The examination the Community is to make will take into account in particular the fact that the third countries concerned should ensure the normal market for such productions, following processing, insofar as the latter are not intended for national or regional consumption.

Within this context and for canned tuna, the Community will examine requests from interested ACP States in a positive spirit, case by case, provided that the economic dossier accompanying each request clearly shows that a case such as those referred to in the preceding paragraph is involved. Taken within the time limits provided for in Article 31 of Protocol 1, the decision will indicate, on a case-by-case basis, the agreed quantities and its duration of implementation, account being taken of Article 31(10) of that Protocol.

The derogations granted in the framework of this Declaration shall not prejudice the rights of ACP States to apply for and obtain derogations granted under Article 31 of Protocol 1.

## ANNEX LXVI

### **Community declaration relating to Protocol 1 on the extent of territorial waters**

The Community, recalling that the relevant acknowledged principles of international law restrict the maximum extent of territorial waters to 12 nautical miles, declares that it will take account of this limit in applying the provisions of the Protocol wherever the latter refers to this concept.

## ANNEX LXVII

### **ACP declaration relating to Protocol 1 on the origin of fishery products**

The ACP States reaffirm the point of view they expressed throughout the negotiations on the rules of origin in respect of fishery products and consequently maintain that following the exercise of their sovereign rights over fishery resources in the waters within their national jurisdiction, including the exclusive economic zone, as defined in the United Nations Convention on the Law of the Sea, all catches effected in those waters and obligatorily landed in ports of the ACP States for processing should enjoy originating status.

## ANNEX LXVIII

### Joint declaration on Articles 1 and 2 of Protocol 2

1. A fund administered by the bodies acting for the ACP side as secretariat to the Council of Ministers and to the Joint Assembly shall be set up by the ACP States under those bodies with the exclusive aim of contributing to the financing of expenditure incurred by ACP participants in meetings arranged by the Joint Assembly (excluding its general sessions) and meetings organized by the Council of Ministers between bodies in the Community and the ACP States to establish contacts for the purposes of decentralized co-operation.

The ACP States shall make their contribution to the fund. For its part, the Community shall contribute an amount not exceeding ECU 3 million for the life of the Financial Protocol annexed to the Convention and in accordance with Article 166.

2. In order to be covered by the fund, expenditure must meet the following conditions, in addition to those referred to in paragraph 1;

- it must result from the participation by parliamentarians or, failing that, by other ACP members of the Joint Assembly, travelling from the countries they represent, in Joint Assembly working parties or special missions arranged by the Joint Assembly, and also from participation by those persons and representatives of ACP economic and social sectors in the consultation sessions provided for in Articles 30(2)(h) and 32(2)(b) of the Convention;
- decisions on the organization of working parties or missions and the frequency and venue of the meetings or missions must be taken in accordance with the rules of procedure of the Council of Ministers and of the Joint Assembly.

3. Payment by the Community of each annual instalment, except the first, shall be subject to presentation by the bodies acting as secretariat for the ACP members of the Council of Ministers and of the Joint Assembly of a statement of the use, in accordance with the conditions set out in paragraphs 1 and 2, to which earlier instalments have been put.

## ANNEX LXIX

### Community declaration relating to Protocol 2

Having noted the request by the ACP States concerning a financial contribution towards the operating expenditure of their Secretariat, the Community, in the spirit of the relevant undertaking made at the second meeting of the ACP-EEC Council of Ministers in Fiji, states its readiness to examine with particular attention the specific requests to be made to it in due course with a view to enabling the Secretariat to avail itself of such personnel as may appear necessary.

## ANNEX LXX

### Community declaration relating to Protocol 2

The Community, being aware that expenditure in connection with interpreting at meetings and the translation of documents is expenditure incurred essentially for its own requirements, is prepared to continue past practice and meet this expenditure both for meetings of the institutions of the Convention which take place in the territory of a Member State and those which take place in the territory of an ACP State.

## ANNEX LXXI

### **Community declaration relating to Protocol 3**

Protocol 3 is a multilateral act from the point of view of international law. However, any specific problems that may arise in the host State regarding the application of Protocol 3 should be settled by bilateral agreement with that State.

The Community has noted the ACP States' requests that certain provisions of Protocol 3 be modified, notably as regards the status of the staff of the ACP Secretariat, the Centre for the Development of Industry (CDI) and the Technical Centre for Agricultural and Rural Co-operation (CTA).

The Community is willing to seek jointly appropriate solutions in respect of the ACP States' requests with a view to establishing a separate legal instrument as referred to above.

In this context, the host country will, without derogating from the present benefits enjoyed by the ACP Secretariat, the CDI, the CTA and their staff:

- (1) show understanding as regards the interpretation of the expression "staff of senior rank" such an interpretation to be arrived at by mutual agreement;
- (2) recognize the powers delegated by the President of the Council of ACP Ministers to the Chairman of the ACP-EEC Committee of Ambassadors, in order to simplify implementation of Article 9 of the Protocol;
- (3) agree to grant certain facilities to the staff of the ACP Secretariat, the CDI and the CTA to facilitate initial installation in the host country;
- (4) examine in an appropriate way tax-related questions concerning the ACP Secretariat, the CDI and the CTA and their staff.

## ANNEX LXXII

### **Declaration by the Member States relating to Protocol 3**

The Member States shall strive, in the context of their respective regulations, notably those concerning visas, to facilitate throughout their respective territories, the movement in pursuit of their official duties of ACP diplomats accredited to the Community, members of the ACP Secretariat referred to in Article 7 of Protocol 3, whose names and positions shall be communicated in accordance with Article 9 of that Protocol, and the ACP executives of the CDI and the CTA.

## ANNEX LXXIII

### **Joint declaration relating to Protocol 3 on Commission delegations**

Within the context of their respective regulations, the ACP States shall grant Commission delegations privileges and immunities similar to those granted to diplomatic missions so that they are able to carry out the functions incumbent on them under the Convention in a satisfactory and effective manner.

## ANNEX LXXIV

### **Joint declaration relating to Protocol 5**

The Contracting Parties agree that Article 1 of Protocol 5 does not prevent the Community from establishing common rules for bananas, in full consultation with the ACP, as long as no ACP State, traditional supplier to the Community, is placed as regards access to, and advantages in, the Community, in a less favourable situation than in the past or at present.

Should substantial modifications in this sector, other than a natural fall in banana consumption, take place in the Community, following on the completion of the single European market, the Community undertakes to consult with the traditional suppliers of bananas, taking into account the situation newly created, with a view to safeguarding all legitimate interests of the Parties to this Protocol.

#### ANNEX LXXV

##### **Community declaration relating to Protocol 5** (Geographical cover: Haiti and the Dominican Republic)

Protocol 5 and the joint declaration annexed thereto refer expressly to the ACP States which are traditional suppliers of the Community. The purpose of the Protocol and of the declaration is to ensure the continuation of the special advantages which certain ACP States currently enjoy on the Community market.

Given that the new ACP States party to the Convention do not at present export to the Community, they are accordingly not considered as traditional suppliers.

#### ANNEX LXXVI

##### **Joint declaration relating to Protocol 6**

1. In the event of the introduction of a common organization of the market in alcohol the Community undertakes to consult with the traditional exporters of rum with the aim of safeguarding their interests under changing market conditions.
2. Should substantial modifications, other than a natural fall in rum consumption, take place on the Community rum market following its enlargement, the Community undertakes to consult with the traditional exporters of rum taking into account the situation newly created, with a view to safeguarding the traditional suppliers' interests.
3. The Member States undertake that their licensing system shall not be operated by their authorities in such a way as to impede the import of the quantities of rum specified in Article 2(a).
4. The Contracting Parties note that the Community has agreed to the provisions of Article 4 on condition that:
  - (a) any ACP State wishing to benefit from these provisions shall include appropriate trade promotion projects for rum in its national indicative programme;
  - (b) the Community's acceptance does not prejudice the legislation of Member States in matters of alcohol advertising.

#### ANNEX LXXVII

##### **Joint declaration relating to Protocol 7**

Should an ACP State that is not a beneficiary of the Protocol on beef and veal find itself able to export to the Community, that State's problem will be examined in the appropriate framework.

#### ANNEX LXXVIII

##### **Community declaration relating to Protocol 7**

The total quantity provided for in Protocol 7 does not take into account the possible accession of Namibia to the Convention. Should Namibia accede, the Community will examine in a favourable light a solution mutually satisfactory which does not prejudice the interests of present ACP beneficiaries of the said Protocol.

**MINUTES  
OF THE SIGNING OF THE FOURTH ACP-EEC CONVENTION**

**Done at Lomé, 15 December 1989**

**MINUTES**

of the signing of the fourth ACP-EEC Convention of Lomé

The Plenipotentiaries of the ACP States, of the European Communities and of the Member States of the Communities today signed the fourth ACP-EEC Convention of Lomé and the Final Act thereto.

On this occasion, the European Economic Community and the ACP States agreed to annex to these Minutes the following declarations.

For the Council of the European  
Communities

[Signature]

For the Council of Ministers of the  
African, Caribbean and Pacific States

[Signature]

## ANNEX I

### **Joint declaration on traditional fishing activities**

In bilateral negotiations between an ACP State and the Community, one of the factors to be taken into account will be traditional fishing activities in which vessels flying the flag of one of the Member States of the Community are engaged or have been engaged until recently, and the mutual advantages which may be derived from developing new fishing activities in the future.

## ANNEX II

### **Joint declaration on the joint declaration, annexed to the Final Act, on co-operation between ACP States and the neighbouring overseas countries and territories and French overseas departments**

The interpretation of the fourth paragraph of the Joint declaration on co-operation between ACP States and the neighbouring overseas countries and territories and French overseas departments shall not be construed as implying obligations for the ACP States additional to those incumbent upon them under the Convention.

## ANNEX III

### **Community declaration on Article 168(2) relating to trade co-operation**

Regarding the agricultural products for which the ACP States presented requests for preferential access during the negotiations, the Community agrees to consider, in the light of Article 168(2)(c), and on a case-by-case basis, any substantiated requests presented after the signing of the Convention.

## ANNEX IV

### **Community declaration relating to trade co-operation**

The Community declares that a favourable examination will be made of the request by Mauritius in respect of imports of wheat bran into the Department of Reunion in the context of implementation of the Community POSEIDOM programme and of regional trade co-operation.

## ANNEX V

### **Community declaration relating to trade co-operation**

The Community confirms that the national quantitative restrictions applicable under Article 169(2) of the Convention and Article 22 of Regulation (EEC) No. 1035/72 of 18 May 1972 shall be abolished for the following product originating from ACP States:

*CN Code*  
ex 0708 20

*Product*  
Beans

## ANNEX VI

### **Community declaration relating to trade co-operation**

The Community confirms that the provision for national shares of the Community rum quota, opened under Protocol 6, will be phased out in accordance with the following timetable:

- July 1990—June 1991 marketing year: EEC reserve 40% of the quota
- July 1991—June 1992 marketing year: EEC reserve 60% of the quota
- July 1992—December 1992 marketing period: EEC reserve 80% of the quota
- 1 January 1993—abolition of national shares

## ANNEX VII

### **Joint declaration relating to Article 9 and Annex XXVIII to the second ACP-EEC Convention**

The Contracting Parties note that the following declaration annexed to the Agreement on the accession of the Republic of Zimbabwe to the second ACP-EEC Convention will continue to be operative:

“Having regard to Article 9 of the second ACP-EEC Convention and the declaration in Annex XXVIII to the Convention, the Community recognizes and the Government of Zimbabwe declares:

- that if any modification to the Zimbabwe customs tariff and to its preferential arrangements with a developed third country is contemplated, the Government of Zimbabwe will enter into immediate consultations with the Community regarding such intentions;
- that the Government of Zimbabwe and the Community will have immediate consultations at the request of either party, whenever the preferential treatment granted to another developed country might be considered as giving rise to less favourable treatment for Community exports.”

## ANNEX VIII

### **STABEX**

#### **Joint declaration relating to the first calendar year of application**

The Contracting Parties agree that the first year of application of the system for the stabilization of export earnings referred to in Articles 186 to 212 shall be the calendar year in which the Convention effectively enters into force. However, if the timetable for the entry into force so requires, all appropriate measures shall be taken to ensure the application of the system in the first calendar year in which the circumstances permit.



**MINUTES  
OF THE SIGNING OF THE INTERNAL AGREEMENT ON  
THE FINANCING AND ADMINISTRATION OF COMMUNITY  
AID UNDER THE FOURTH ACP-EEC CONVENTION**

The representatives of the governments of the Member States of the European Communities today signed the Internal Agreement on the financing and administration of Community aid under the fourth ACP-EEC Convention.

At the same time it was agreed that the attached statements should be annexed to these minutes.

Done at Brussels on the sixteenth day of July in the year one thousand nine hundred and ninety.

[Here follow the signatures on behalf of:

Belgium  
Denmark  
France  
Germany, Federal Republic of  
Greece  
Ireland  
Italy  
Luxembourg  
Netherlands  
Portugal  
Spain  
United Kingdom]

## STATEMENTS FOR ENTRY IN THE MINUTES OF SIGNING

### 1. *Re Article 2(1)(b)*

*Statement by the Member States and the Commission:*

“Within the shares of the resources allocated to each of the three groups of countries and territories, priority will be given to the use of grants for the poorest countries and territories.”

### 2. *Re Article 9(2)*

*Statements by the Commission:*

“The decisions taken by the Commission pursuant to Article 9(2) are the subject of periodic financing proposals submitted for opinion to the EDF Committee in accordance with the terms laid down in Articles 21, 25 and 26 of the Internal Agreement.

The administrative and financial costs referred to in this paragraph are those not normally borne by the general budget of the Community (for example exchange losses and interest arrears) and which may not be allocated to projects or programmes.

The studies and consultancy services referred to in paragraph 2 must relate to specific operations in favour of the ACP States, in particular those connected with structural adjustment.

Were the revenue referred to in this Article to be used for purposes other than those stipulated in paragraph 2, the Commission would refer the matter to the Council, which would act by the qualified majority laid down in Article 21(4).”

### 3. *Re Article 13(3)*

*Statement by the Member States and the Bank:*

“1. The sectors of Bank intervention mentioned in Article 13(3) are not limitative but constitute a guideline which does not exclude the possibility of the Bank giving aid in the form of loans from its own resources for infrastructure projects showing a commercial return in the ACP States when this form of financing seems appropriate, by reason of their level of development and economic and financial situation.

2. Requests for financing by risk capital for infrastructure projects showing a commercial return may also be examined by the Bank in the case of industrial-type undertakings under autonomous management which are able to justify use of this kind of aid.

3. As regards aid for small and medium-sized undertakings, responsibility for appraising such projects rests either with the Bank (Article 263(e) of the Convention) or the Commission (Article 284(a) of the Convention) according to the rules and criteria set out in the table which follows:

## ALLOCATION OF RESPONSIBILITIES BETWEEN THE COMMISSION AND THE BANK FOR THE FINANCING OF SMALL AND MEDIUM-SIZED UNDERTAKINGS

### Bank

### Commission

#### I. SECTORS

Small and medium-sized undertakings in the sectors of Bank intervention in particular in industry, agricultural industry and tourism.

Small and medium-sized undertakings in the craft, agricultural, commercial and service sectors, without prejudice to the Bank's responsibilities as regards tourism.

## II. ONLENDING BODIES

Banks and ACP or EEC financial intermediaries allocating investment funds to SMUs in the sectors of Bank intervention and employing banking and commercial administrative methods.

Bodies, whether public or in the nature of a co-operative or mutual assistance society, aimed at developing SMUs in the craft, commercial, agricultural and service sectors.

## III. METHODS AND PROCEDURES

(For the record) Direct acquisition of holdings by the Community in the capital of financial intermediaries.

—Global loans, with interest rate subsidy, from the Bank's own resources.

—Global aid, in the form of risk capital (to finance loans or constitute the own resources of small and medium-sized undertakings).

Grant or special loan to the onlending body with the condition, where appropriate, that the latter pass on the financing in the form of a loan in accordance with Article 233(4)(b) of the Convention.

## IV. SIZE OF THE LENDING OPERATIONS

No prior limit on global loans or aid. Minimum lending of ECU 50,000 (or, of course, more) for undertakings in the Bank sectors specified under I above.

No prior limit on global aid. For each individual operation, loans onlent may not exceed: ECU 50,000 in the craft sector; ECU 100,000 in the commercial, agricultural and service sectors."

4. *Re Article 16**Internal statement:*

"The significant share of risk capital referred to in Article 16 of the Internal Agreement could be a figure of around 35% to 40% of the amount of risk capital, including 3/4 for SMUs. Two years after the entry into force of the Convention, the Bank, in conjunction with the Commission, will submit to the Council a report reviewing experience acquired in this area. In the light of this report, which may be updated either at the instigation of the Bank or at the request of the Commission or of one or more Member States, the indicative percentages referred to above may be revised upwards or downwards by a decision of the Council, acting by the qualified majority referred to in Article 21 of the Internal Agreement."

5. *Re Article 17(1)**Statement by the Commission:*

"The Commission undertakes to make the notes identifying the various projects and programmes more substantial."

*Statement by the Council and the Commission:*

"In the interests of strengthening Community co-ordination, the Member States may, where it appears necessary, exchange views with the Commission, in particular in the ACP States, when projects and programmes are being identified."

6. *Re Article 18(4)**Statement by the Commission:*

"As part of the implementation of support to structural adjustment, the Commission will concert, in accordance with standard procedures, with the Member States, the competent international financial institutions and also with any other aid donor involved in this process."

## 7. *Re Article 20*

### *Statement by the Council and the Commission:*

“The limited proportion of the indicative programme outside the focal sectors that may be allocated to adjustment may not in principle exceed 10% of the indicative programme. In exceptional cases and to meet the requirements and special constraints of certain ACP States, this proportion could be exceeded after the EDF Committee has delivered a favourable opinion on the proportion being exceeded under the conditions laid down in Articles 23 and 25 of the internal Agreement.”

### *Statement by the Commission:*

“The Commission undertakes to provide the Member States, if possible during the programme-identification stage and at the latest at the time of the financing proposal, with all appropriate information on the content of the import programmes and how they are to be implemented.”

### *Statement by the Council and the Commission re Article 20(d):*

“Structural adjustment support programmes specifying a tendering system and order values in that context, in accordance with Article 20(1)(d), are to take account of the principles enunciated in Articles 294 et seq. of the Fourth Lomé Convention, which must be applied with flexibility as stipulated in Articles 247(4) and 248(c) of the Convention.”

### *Statements by the Commission re Article 20(1)(e):*

“The Commission considers that the three principles laid down in Article 20(1)(e) are to be systematically incorporated into the agreement concluded with the ACP body responsible for the programme’s implementation and into the contract concluded with the agency or expert recruited for such technical assistance.

The Commission will take all appropriate measures to ensure equal opportunities for operators from all Member States in access to all contracts financed under adjustment support instruments. By equal opportunities for access the Commission means the broadest possible consultation of Member States’ undertakings.

The Commission undertakes to provide the Member States, if possible during the programme-identification stage and at the latest at the time of the financing proposal, with all appropriate information on the content of the import programmes and how they are to be implemented.

In any choice to combine orders, the Commission will take special care not to detract from the initiative and role of private operators in recipient countries and thus not to affect the existing economic fabric of such countries.”

## 8. *Re Article 24*

### *Statement by the Member States and the Commission:*

“The role allocated to the EDF Committee regarding development-policy problems and any general problem should be understood as being without prejudice to the powers of the Council Working Party on Development Co-operation in this connection.”

## 9. *Re Article 25(1)(b)*

### *Statement by the Commission:*

“Pursuant to Article 246(2) of the Convention, eligibility of the ACP States for adjustment-support resources shall be deemed to have been acquired automatically where those States undertake programmes of reforms supported by the IMF and/or by the World Bank or accompanied by those institutions (shadow programmes).

The automatic eligibility of those countries in no way prejudices either the changes likely to be made to the adjustment process or the choice of the Community instruments intended to support that process.”

## 10. *Re Article 25(1)(c)*

### *Statement by the Council and the Commission:*

“The conditions and detailed arrangements governing recourse to the written procedure or to the standard procedure, as they are defined in the EDF Committee’s rules of procedure, may be adapted subsequently in the light of experience.”

*Statement by the Commission:*

“The Commission will agree to use of the oral procedure in the EDF Committee, at the request of a Member State, in accordance with detailed arrangements and time limits to be laid down in the Committee’s rules of procedure.

In the proposals which it is to submit in the context of discussions on the EDF Committee’s rules of procedure, the Commission does not envisage use of the written procedure for projects and programmes having a value in excess of ECU 10 million.”

11. *Re Article 25(2)*

*Statements by the Commission:*

“The Commission undertakes to make subject to the EDF Committee’s oral procedure any financing proposal of a value of less than ECU 2 million if such a proposal represents more than 25% of the amount of the indicative programme of the country concerned or in the event of doubt as to the economic significance of the decision envisaged for the country in question.

The Commission further undertakes not to fragment projects to facilitate their adoption.

Lastly, the Commission undertakes to provide the Member States with summary information on the financing decisions which it intends to adopt directly, in order to enable them to ascertain whether the conditions for using this authorization, as they are defined in this statement, have been properly complied with.

During the discussions on the EDF Committee’s rules of procedure, the Commission will submit proposals designed to improve the process whereby Member States are informed of projects or programmes submitted to the EDF Committee for its opinion. Such improvements will concern, in particular, the time-limits for forwarding financing proposals and their presentation, and also the language requirements.”

12. *Re Article 25(4)*

*Statement by the Commission:*

“The financing proposals referred to in paragraph 4 will be submitted to the EDF Committee according to the standard procedure; the EDF Committee will be asked to give its opinion on the overall amount per operation.”

*Unilateral statement by the Spanish delegation:*

“The Spanish delegation considers that the financing proposals referred to in Article 25(4) should not normally exceed an amount of ECU 5 million.”

13. *Re Article 29(1)*

*Statement by the Bank:*

“The Bank will consider with an open mind requests for discussions made by the Member States.”

14. *Re Article 29(4)*

*Statement by the Bank:*

“The competent body of the Bank in such a case is its Management Committee.”

15. *Re Article 31*

*Joint statement by the Commission and the Council:*

“This Article is without prejudice to the discussions to be held on this point in the course of the finalization of the Internal Financial Regulation.”

16. *Re Article 32*

*The Member States and the Commission state that:*

“The Financial Regulation of the 7th EDF will stipulate that the Commission is to take all appropriate measures to ensure the effective dissemination of information to the economic circles concerned, notably through the periodic publication of estimates for contracts to be financed from EDF resources.”

*Statements by the Commission:*

“The Commission will take all appropriate measures to ensure, in accordance with Article 295 of the Convention, as wide a participation as possible on equal terms, in tendering for supply, works and service contracts and will see to it that the criteria for selecting successful tenderers laid down in Article 304 of the Convention are applied with all the requisite stringency and transparency.

With all due regard to the criteria laid down in Article 278 of the Convention, the Commission will endeavour, for the award of service contracts (consultancy, works supervision, technical assistance, experts' reports etc.) financed by the EDF, to bring about as balanced a participation as possible of experts and consultancy firms from all Member States, ACP States and OCT which meet the formal qualifications laid down in Article 278.”

The Commission also commits itself to discussion of this point when the Financial Regulation is examined and undertakes to prepare for that purpose a document on the operation of short-listing systems for service contracts.”

17. *Re Article 33*

*Statement by the Bank, the Member States and the Commission*

“In accordance with detailed arrangements to be agreed at a later stage between the Commission, the Bank and itself, the Court of Auditors may take part in on-the-spot checks carried out by the Bank's monitoring bodies for operations financed from the Fund resources it administers.”

**INTERNAL AGREEMENT  
ON THE MEASURES AND PROCEDURES REQUIRED FOR  
IMPLEMENTATION OF THE FOURTH ACP-EEC CONVENTION**

The representatives of the governments of the Member States of the European Economic Community, meeting in the Council,

Having regard to the Treaty establishing the European Economic Community (hereinafter called "the Treaty") and the Fourth ACP-EEC Convention signed at Lomé on 15 December 1989, (hereinafter called "the Convention"),

Whereas the representatives of the Community will have to adopt common positions in the Council of Ministers provided for by the Convention (hereinafter called "the Council of ACP-EEC Ministers"); whereas, moreover, implementation of the decisions, recommendations and opinions of this Council may require, as the case may be, action by the Community, joint action by the Member States or action by a Member State;

Whereas, therefore, it is necessary for the Member States to specify the conditions for determining, in the fields for which they are competent, the common positions to be adopted by the representatives of the Community within the Council of ACP-EEC Ministers; whereas, in the same fields, it will also be for them to take the measures implementing such decisions, recommendations and opinions of that Council as may require joint action by the Member States or action by a Member State;

Whereas provision should, likewise, be made for the Member States to communicate to one another and to the Commission any Treaty, Convention, Agreement or arrangement and any part of a Treaty, Convention, Agreement or arrangement which concerns matters dealt with in the Convention and which has been, or will be, concluded between one or more Member States and one or more ACP States;

Whereas procedures should also be laid down whereby Member States may settle any disputes which may arise between them with regard to the Convention;

After consulting the Commission,

Have agreed as follows:

**ARTICLE 1**

1. The common position to be supported by the representatives of the Community in the Council of ACP-EEC Ministers when the latter considers matters for which the Member States are competent shall be adopted by the Council, acting unanimously after consulting the Commission.
2. Where, pursuant to Article 345 of the Convention, the Council of ACP-EEC Ministers envisages delegating to the Committee of Ambassadors provided for by the Convention the power to take decisions or put forward recommendations or opinions in the fields for which the Member States are competent, the common position shall be adopted by the Council, acting unanimously after consulting the Commission.
3. Common positions which the representatives of the Community support in the Committee of Ambassadors shall be adopted in the same manner as those laid down in paragraph 1.

**ARTICLE 2**

1. Decisions and recommendations adopted by the Council of ACP-EEC Ministers in the fields for which the Member States are competent shall be implemented by acts adopted by the latter.
2. Paragraph 1 shall also apply in respect of decisions and recommendations adopted by the Committee of Ambassadors pursuant to Article 346 of the Convention.

### ARTICLE 3

Any Treaty, Convention, Agreement or arrangement, or any part of a Treaty, Convention, Agreement or arrangement, of whatever form or nature, which has been, or will be, concluded between one or more Member States and one or more ACP States and which concerns matters dealt with in the Convention, shall be communicated at the earliest opportunity by the Member State or States concerned to the other Member States and to the Commission.

At the request of a Member State or of the Commission, any texts so communicated shall be discussed by the Council.

### ARTICLE 4

1. Any Member States having concluded with any ACP State a Treaty, Convention, Agreement or arrangement or part of a Treaty, Convention, Agreement or arrangement concerning investment promotion and protection, whether or not before entry into force of this Agreement; shall communicate the text at the earliest opportunity to the General Secretariat of the Council, which shall inform the other Member States and the Commission.

2. Any Member State contemplating concluding with an ACP State a Treaty, Convention, Agreement or arrangement or part of a Treaty, Convention, Agreement or arrangement concerning investment promotion and protection may communicate its intention to the other Member States and the Commission through the General Secretariat of the Council.

3. At the request of any interested Member State, exchanges of views may take place within the Council on the basis of the communications referred to in paragraphs 1 and 2. A Member State which has started negotiations that have been the subject of such exchanges of views shall communicate to the other Member States and the Commission through the General Secretariat of the Council any further information of use to them. At the conclusion of the negotiations it shall communicate to them in the same manner the initialled text of the agreement reached as a result of the negotiations.

### ARTICLE 5

Should a Member State consider it necessary to invoke Article 352 of the Convention in matters for which the Member States are competent, it shall first consult the other Member States.

If the Council of ACP-EEC Ministers has to reach a decision on the action by the Member State referred to in the first paragraph, the position put forward by the Community shall be that of the Member State concerned, unless the representatives of the Governments of the Member States, meeting in the Council, decide otherwise.

### ARTICLE 6

Disputes arising between Member States concerning the Convention, the Protocols attached thereto or the Internal Agreements signed for implementation of the Convention shall, at the request of the earliest petitioner, be submitted to the Court of Justice of the European Communities in the manner laid down in the Treaty and in the Protocol on the Statute of the Court of Justice annexed to the Treaty.

### ARTICLE 7

The representatives of the Governments of the Member States, meeting in the Council, may at any time, after consulting the Commission, amend or supplement this Agreement.



#### ARTICLE 8

This Agreement shall be approved by each Member State in accordance with its own constitutional requirements. The government of each Member State shall notify the General Secretariat of the Council of the completion of the procedures required for the entry into force of the Agreement.

Provided that the provisions of the first paragraph have been complied with, this Agreement shall enter into force at the same time as the Convention. It shall remain in force for the duration of that Convention.

#### ARTICLE 9

This Agreement, drawn up in a single original in the Danish, Dutch, English, French, German, Greek, Italian, Portuguese and Spanish languages, all nine texts being equally authentic, shall be deposited in the archives of the General Secretariat of the Council, which shall transmit a certified copy to each of the governments of the Signatory States.

Done at Brussels on the sixteenth day of July in the year one thousand nine hundred and ninety.

[Here follow the signatures on behalf of

Belgium  
Denmark  
France  
Germany, Federal Republic of  
Greece  
Ireland  
Italy  
Luxembourg  
Netherlands  
Portugal  
Spain  
United Kingdom]

**INTERNAL AGREEMENT  
ON THE FINANCING AND ADMINISTRATION OF COMMUNITY AID  
UNDER THE FOURTH ACP-EEC CONVENTION**

The representatives of the Governments of the Member States of the European Economic Community, meeting within the Council,

Having regard to the Treaty establishing the European Economic Community,

Whereas the Fourth ACP-EEC Convention, signed in Lomé on 15 December 1989 (hereinafter referred to as the "Convention"), set the aggregate amount of Community aid to the ACP States for the period from 1990 to 1995 at ECU 12 000 million;

Whereas the representatives of the Governments of the Member States meeting within the Council, agreed to set at ECU 140 million the amount of aid from the European Development Fund for the overseas countries and territories to which Part Four of the Treaty applies (hereinafter referred to as the "countries and territories"); whereas provision is also made for operations to the amount of ECU 25 million to be undertaken by the European Investment Bank (hereinafter referred to as the "Bank") from its own resources in the countries and territories;

Whereas the ecu used for the application of this Agreement is defined in Council Regulation (EEC) No. 3180/78 as amended by Council Regulation (EEC) No. 1971/89 or, where appropriate, in any subsequent Council Regulation defining the composition of the ecu;

Whereas, in order to implement the Convention and the Decision concerning the countries and territories (hereinafter referred to as the "Decision"), a seventh European Development Fund should be established and a procedure should be laid down for the provision of funds and for contributions from Member States to these funds;

Whereas the rules for the administration of financial co-operation should be determined, the procedure for programming, examining and approving aid should be decided and the detailed rules for supervising the use of the aid should be laid down;

Whereas a Committee of Representatives of the Governments of the Member States should be set up under the auspices of the Commission and a similar Committee should be set up under the auspices of the Bank; whereas the work done by the Commission and the Bank to apply the Convention and the corresponding provisions of the Decision should be harmonized; whereas it is therefore desirable that, as far as possible, the composition of the committees set up under the auspices of the Commission and of the Bank should be identical;

Having regard to the Council Resolutions of 5 June 1984 and 16 May 1989 on the co-ordination of co-operation policies and operations within the Community;

After consulting the Commission,

Have agreed as follows:

## CHAPTER I

### ARTICLE 1

1. The Member States hereby set up a seventh European Development Fund (1990), hereinafter referred to as the "Fund".
2. (a) The Fund shall consist of ECU 10 940 million to be contributed by the Member States as follows:

	<i>(millions of ecus)</i>
Belgium	433 234
Denmark	227 032
Federal Republic of Germany	2 840 480
Greece	133 920
Spain	644 999
France	2 665 892
Ireland	600 325
Italy	1 417 772
Luxembourg	207 385
Netherlands	609 120
Portugal	96 140
United Kingdom	1 790 640

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- (b) The allocation of contributions under (a) may be amended by a decision of the Council, acting unanimously, should a new State accede to the Community.

### ARTICLE 2

1. The amount stated in Article 1 shall be allocated as follows:
  - (a) ECU 10 800 million for the ACP States, comprising:
    - (i) ECU 7 995 million in the form of grants, of which ECU 1 150 million shall be specifically reserved for structural adjustment support;
    - (ii) ECU 825 million in the form of risk capital;
    - (iii) ECU 1 500 million in the form of transfers pursuant to Part Three, Title II, Chapter 1 of the Convention;
    - (iv) ECU 480 million in the form of the special financing facility pursuant to Part Three, Title II, Chapter 3 of the Convention;
  - (b) ECU 140 million for the countries and territories, comprising:
    - (i) ECU 106,5 million in the form of grants;
    - (ii) ECU 25 million in the form of risk capital;
    - (iii) ECU 2,5 million in the form of the special financing facility pursuant to the provisions of the Decision relating to mining products;
    - (iv) ECU 6 million in the form of transfers for the countries and territories, pursuant to those provisions of the Decision which concern the system for stabilizing export earnings.
2. Where a country or territory which has become independent accedes to the Convention, the amounts indicated in paragraph 1(b)(i), (ii) and (iii) shall be reduced and those indicated in paragraph 1(a) correspondingly increased by a decision of the Council acting unanimously on a proposal from the Commission.

In such cases, the country concerned will continue to be eligible for the funds provided for in paragraph 1(b)(iv), subject to the administrative rules laid down in Part Three, Title II, Chapter 1 of the Convention.

#### ARTICLE 3

To the amount laid down in Article 1 shall be added ECU 1 225 million in the form of loans granted by the Bank from its own resources under the conditions laid down by it in accordance with its Statute.

These loans shall be allocated as follows:

- (a) the amount of ECU 1 200 million for financing operations to be carried out in the ACP States;
- (b) the amount of ECU 25 million for financing operations to be carried out in the countries and territories.

#### ARTICLE 4

In order to finance the interest rate subsidies referred to in Article 235 of the Convention and in the corresponding provisions of the Decision, an amount of up to ECU 280 million shall be set aside from the grant aid specified in Article 2(1)(a)(i) and an amount of up to ECU 6 million shall be set aside from the grant aid specified in Article 2(1)(b)(i).

Any part of this amount not committed by the end of period during which loans are granted by the Bank shall again become available as grant aid under the original Articles.

The Council may decide unanimously, on a proposal from the Commission drawn up in agreement with the Bank, to raise these ceilings.

#### ARTICLE 5

With the exception of loans granted by the Bank from its own resources, all financial operations undertaken for the benefit of the ACP States or the countries and territories in accordance with the Convention or the Decision shall be carried out under the conditions laid down in this Agreement and shall be charged to the Fund.

#### ARTICLE 6

1. Each year the Commission, taking account of the Bank's estimates concerning those operations administered by it, shall establish and communicate to the Council before 1 October a statement of the payments to be made in the following budget year and a schedule of calls for contributions. The Council shall decide thereon by the qualified majority laid down in Article 21(4). The detailed rules for payment of contributions by the Member States shall be determined by the Financial Regulation referred to in Article 32.
2. Together with its annual estimates of contributions, the Commission shall send the Council its estimates for expenditure, including that relating to the previous Conventions, for each of the four years following the year relating to the call for contributions.
3. If the contributions are insufficient to meet the actual requirements of the Fund in the budget year in question, proposals for supplementary payments shall be submitted by the Commission to the Council, which shall as soon as possible decide thereon by the qualified majority laid down in Article 21(4).

#### ARTICLE 7

1. Any remaining balance of the Fund shall be used up in accordance with the same rules as those laid down in the Convention, the Decision and this Agreement.
2. Upon expiry of this Agreement, Member States shall still be obliged to pay, as provided in Article 6 and in the Financial Regulation referred to in Article 32, the portion of their contributions not yet called for.

## ARTICLE 8

1. The Member States undertake to act as guarantor for the Bank, waiving any right to object and in proportion to their contributions to its capital, in respect of all financial commitments arising for its borrowers out of the loan contracts concluded by the Bank with its own resources in implementation both of Article 1 of the Financial Protocol annexed to the Convention and the corresponding provisions of the Decision and, where appropriate, Articles 104 and 109 of the Convention.
2. The guarantee referred to in paragraph 1 shall be restricted to 75% of the total amount of the credits opened by the Bank under all the loan contracts; it shall be applied to cover all risks.
3. Notwithstanding the overall guarantee referred to in paragraphs 1 and 2, the Member States may, with regard to financial commitments under Articles 104 and 109 of the Convention, act as guarantor for the Bank, in specific cases and at the latter's request, in respect of a percentage greater than 75% and up to 100% of the credits opened by the Bank under the corresponding loan contracts.
4. The undertakings arising from paragraphs 1 to 3 shall be the subject of guarantee contracts between each Member State and the Bank.

## ARTICLE 9

1. Payments made to the Bank in respect of special loans granted to the ACP States, the countries and territories and the French overseas departments since 1 June 1964, as well as the proceeds and income from risk capital operations undertaken since 1 February 1971 for the benefit of those States, countries, territories and departments, shall be credited to the Member States in proportion to their contributions to the Fund from which the sums are derived, unless the Council decides unanimously, on a proposal from the Commission, to place them in reserve or allocate them to other operations.

Any commission due to the Bank for managing the loans and operations referred to in the first subparagraph shall be deducted in advance from these sums.

2. Without prejudice to Article 192 of the Convention, the revenue accruing from interest on the funds deposited with the paying agents in Europe referred to in Article 319(4) of the Convention shall be credited to an account opened in the name of the Commission.

After the EDF Committee referred to in Article 21, acting by a qualified majority, has delivered its opinion, the Commission shall use such revenue:

- to cover the administrative and financial costs arising from the cash management of the Fund;
- for limited-budget, short-term studies or consultancy services, in particular in order to strengthen its own capabilities in the area of the analysis, diagnosis and formulation of structural adjustment policies.

## CHAPTER II

### ARTICLE 10

1. Subject to Articles 22, 23 and 24 and without prejudice to the Bank's responsibilities for the administration of certain forms of aid, the Fund shall be administered by the Commission in accordance with the rules laid down in the Financial Regulation referred to in Article 32.
2. Subject to Articles 28 and 29, risk capital and interest rate subsidies financed from the Fund's resources shall be administered by the Bank on behalf of the Community in accordance with its Statute and the rules laid down by the Financial Regulation referred to in Article 32.

#### ARTICLE 11

The Commission shall be responsible for implementing the aid policy defined by the Council and the guidelines for development finance co-operation defined by the ACP-EEC Council of Ministers pursuant to Article 325 of the Convention.

#### ARTICLE 12

1. The Commission and the Bank shall provide each other periodically with appropriate information on the requests made to them for finance and on preliminary contacts made with them, before their requests were submitted, by the relevant bodies of the ACP States, the countries and territories, or other recipients of aid as provided for in Article 230 of the Convention and in the corresponding provisions of the Decision.

2. The Commission and the Bank shall keep each other informed of the progress made in appraising requests for finance. They shall exchange all general information in order to promote the harmonization of administrative procedures and of the course to be followed in their proceedings from a development policy viewpoint and also the assessment of requests.

#### ARTICLE 13

1. The Commission shall appraise projects and programmes which, pursuant to Article 233 of the Convention and the corresponding provisions of the Decision, could be financed by grants from the Fund's resources.

The Commission shall also appraise requests for transfers submitted pursuant to Part Three, Title II, Chapter 1 of the Convention and the corresponding provisions of the Decision, together with projects and programmes eligible for the special financing facility pursuant to Part Three, Title II, Chapter 3 of the Convention and the corresponding provisions of the Decision.

2. The Bank shall appraise projects and programmes which, pursuant to its Statute, Articles 233 and 236 of the Convention and the corresponding provisions of the Decision, could be financed by loans from its own resources with interest rate subsidies, or by risk capital.

3. Production projects and programmes which come under the industrial, agro-industrial, tourism, mining or energy sectors, and transport and telecommunications schemes linked to those sectors shall be presented to the Bank, which shall examine whether they are eligible for one of the forms of aid it administers.

4. Where, in the course of appraisal of a project or programme by the Commission or by the Bank, it is found that the project or programme could not be financed by one of the forms of aid administered by the institution in question, the latter shall, having informed the potential recipient, transmit the request to the other institution.

#### ARTICLE 14

Without prejudice to general instructions which the Bank receives from the Community in respect of the recovery of principal and interest relating to special loans and operations under the special financing facility of the previous Conventions, the Commission shall undertake, on behalf of the Community, the financial execution of operations carried out with the Fund's resources in the form of grants, transfers or the special financing facility; it shall make payments in accordance with the Financial Regulation referred to in Article 32.

#### ARTICLE 15

1. The Bank shall undertake, on behalf of the Community, the financial execution of operations carried out with the Fund's resources in the form of risk capital. In this context, the Bank shall act on behalf and at the risk of the Community. Any resulting rights, and particularly rights as creditor or owner, shall be vested in the Community.

2. The Bank shall undertake the financial execution of operations carried out by means of loans from its resources combined with interest rate subsidies from the Fund's resources.

## ARTICLE 16

In order to attain the Convention's financing and investment support objectives, a significant share of the risk capital shall be allocated to support private sector investment, in particular small and medium-sized undertakings.

## CHAPTER III

### ARTICLE 17

1. In order to ensure co-ordination between co-operation operations and improve complementarity between them and the Member States' bilateral aid, the Commission shall communicate to the Member States and their representatives on the spot the notes identifying projects as soon as the decision to appraise them has been taken.
2. For their part the Member States shall periodically communicate to the Commission an updated statement of any development aid they have granted or intend to grant.
3. The Member States and the Commission shall also communicate to each other, in the context of the proceedings of the EDF Committee referred to in Article 21, any information they possess on other bilateral, regional or multilateral aid granted to or envisaged for ACP States.
4. The Bank shall regularly and confidentially inform the representatives of the Member States and of the Commission designated by name of any projects for the benefit of the ACP States which it intends to appraise.

### ARTICLE 18

1. The programming provided for in Article 281 of the Convention shall be undertaken in each ACP State under the responsibility of the Commission and with the participation of the Bank.
2. In order to prepare the programming, the Commission, in consultation with the member States, in particular those represented on the spot, and in conjunction with the Bank, shall undertake an analysis of each ACP State's economic situation so that any obstacles to development can be identified and the consequent necessary policies can be assessed.
3. The analysis referred to in paragraph 2 shall also concern sectors in which the Community is particularly active and those for which a request for Community support may be envisaged; it shall take account of the interdependence between sectors and be based on a detailed assessment of past Community aid and of the lessons learned therefrom.
4. The analysis referred to in paragraph 2 shall in addition cover the scope and effectiveness of the reforms undertaken or planned by the State concerned at macro-economic or sectoral level and the State's financial requirements, so as to facilitate in particular the implementation of the provisions of Part Three, Title III, Chapter 2, Section 3 of the Convention on structural adjustment support.
5. On the basis of the analysis referred to in paragraph 2 and proposals made by the ACP State concerned, exchanges of view shall take place between the latter, the Commission and the Bank, for the part concerning the latter, under Article 282 of the Convention with a view to drawing up the indicative Community aid programme.

### ARTICLE 19

1. Before the indicative programme provided for in Article 281 of the Convention is established jointly by the Commission, with the participation of the Bank for the part concerning it, and the State concerned, the Commission shall, in collaboration with the Bank, prepare a summary document on each country giving the conclusions of the preparation of programming and setting out the sectors on which Community aid is to be

concentrated, the planned measures and operations to attain the objectives set for those sectors and, where appropriate, the eligibility of the State concerned for the resources earmarked for adjustment support and the broad lines of Community support.

This document shall be examined by the representatives of the Member States, the Commission and the Bank, within the EDF Committee referred to in Article 21, in order to assess the general framework of the Community's co-operation with each ACP State and to ensure, as far as possible, co-ordination and complementarity of Community aid from the Member States.

As soon as possible after this examination, the Commission, the Bank, for the part concerning it, and the State concerned shall jointly establish an indicative programme.

2. The indicative programme of Community aid for each ACP State shall be forwarded to the Member States so that an exchange of views can take place between the representatives of the Member States, the Commission and the Bank. This exchange of views shall be held if the Commission or one or more Member States so request.

3. The provisions in Article 18 and in this Article relating to national programming shall apply *mutatis mutandis* to regional programming on the basis of Article 160 of the Convention.

#### ARTICLE 20

1. The provisions of the Convention relating to adjustment support shall be implemented on the basis of the following principles:

- (a) When analysing the situation of the States concerned, the Commission, using a diagnostic method based on the indicators listed in Article 246 of the Convention, shall assess the scope and effectiveness of the reforms undertaken or contemplated in the areas covered by that Article, in particular monetary, budgetary and fiscal policies.
- (b) Support given for structural adjustment must relate directly to operations and measures adopted by the State concerned in connection with that adjustment.
- (c) The procedures applying in the award of contracts must be sufficiently flexible to adapt to the normal administrative and commercial procedures in the ACP States concerned.
- (d) Subject to paragraph (c), each structural adjustment support programme shall specify, for imports, the tendering system, together with the values of import orders determining the choice of the three forms of invitation to tender:
  - international invitation to tender;
  - restricted invitation to tender;
  - direct agreement.

However, normal public tendering procedures shall be followed for imports by the State or quasi-public bodies.

- (e) At the request of the ACP State concerned and after concertation with this State, technical assistance shall be made available to the ACP body responsible for implementing the programme.

When technical assistance is negotiated, the Commission shall ensure that such technical assistance is responsible for:

- supervising the operational aspects of the programme;
- ensuring that imports are procured on the best quality/price terms following the widest possible consultations with ACP and EEC suppliers;
- advising importers, whenever technically possible and economically justified, on how to extend their markets.

Such technical assistance personnel may, if necessary, assist importers who so desire to combine their orders where the goods to be imported are homogenous, and thus obtain a better quality/price ratio.

2. The Commission shall inform the Member States, as the need arises and at least once a year, of the implementation of the adjustment support programmes and of any problem with regard to maintaining eligibility. The information provided, accompanied by all



necessary particulars including statistical data, shall cover, in particular, the proper application of the agreement concluded with the ACP body responsible for implementing the programme, including the provisions relating to the consultations referred to in the second indent of paragraph 1(e). On the basis of this information, the progress of import programmes and co-ordination with other donors, the Council, acting on a proposal from the Commission, may adjust the arrangements for implementing the programmes, as specified in paragraph 1.

## CHAPTER IV

### ARTICLE 21

1. A Committee (hereinafter called the "EDF Committee") consisting of representatives of the governments of the Member States shall be set up under the auspices of the Commission, for the resources it administers.

The EDF Committee shall be chaired by a Commission representative, and its secretariat shall be provided by the Commission.

A representative of the Bank shall take part in its work.

2. The Council, acting unanimously, shall adopt the rules of procedure of the EDF Committee.

3. Within the EDF Committee, the votes of the Member States shall be weighted as follows:

Belgium	8
Denmark	5
Federal Republic of Germany	52
Greece	4
Spain	13
France	49
Ireland	2
Italy	26
Luxembourg	1
Netherlands	12
Portugal	3
United Kingdom	33

4. The EDF Committee shall act by a qualified majority of 133 votes, expressing a vote in favour by at least six Member States.

5. The weightings laid down in paragraph 3 and the qualified majority mentioned in paragraph 4 shall be amended, by a decision of the Council, acting unanimously, in the case referred to in Article 1(2)(b).

### ARTICLE 22

1. The EDF Committee shall focus its work on the substantive problems of co-operation on a country-by-country basis and seek appropriate co-ordination of the approaches and operations of the Community and its Member States in the interests of consistency and complementarity.

2. The Committee's tasks shall cover three levels:

- programming of Community aid;
- monitoring the implementation of Community aid;
- the taking of decisions.

#### ARTICLE 23

With regard to programming, the purpose of the examination referred to in Article 19 shall be to reach the desirable consensus between the Commission and the Member States. This examination shall take place within the EDF Committee and shall concern:

- the general framework of Community co-operation with each ACP State, in particular the proposed focal sectors and the measures envisaged to attain the objectives set for those sectors and the general guidelines proposed for the implementation of regional co-operation;
- consistency and complementarity between Community aid and that of the Member States.

If it is not possible to reach the consensus referred to in the first subparagraph, then at the request of a Member State or the Commission, the Committee will also give its opinion acting by a qualified majority in accordance with the detailed rules laid down in Article 21.

#### ARTICLE 24

With regard to the monitoring of the implementation of co-operation, the EDF Committee shall discuss:

- development policy problems and any problem of a general nature which might result from the implementation of the various projects or programmes financed from the resources administered by the Commission, account being taken of the Member States' experience and operations;
- the approach of the Community and the Member States to the adjustment support given to the States concerned;
- any changes which might appear necessary in the indicative programmes or in adjustment support;
- mid-term review, which will be provided by the Commission, of programmes in the context of the programming exercise, or where otherwise requested by the Committee when approving proposals;
- evaluations of Community aids when they give rise to issues relating to the work of the Committee.

#### ARTICLE 25

1. With regard to the decision-making process, the EDF Committee shall give its opinion, by the qualified majority laid down in Article 21, on:

- (a) the eligibility of the ACP States for resources to support structural adjustment, except in cases where, under Article 246(2) of the Convention, such eligibility is automatic;
- (b) financing proposals for projects or programmes with a value greater than ECU 2 million, according to a written procedure or a standard procedure the detailed arrangements for which shall be determined in the rules of procedure referred to in Article 21(2);
- (c) financing proposals relating to adjustment support or to the special financing facility (SYSMIN), irrespective of the amount involved;
- (d) periodic financing proposals drawn up under Article 9(2) (use of interest).

2. The Commission is authorized to approve operations with a value less than ECU 2 million without seeking the EDF Committee's opinion.

3. The financing proposals shall indicate the relevance of the projects or programmes to the development prospects of the country or countries concerned and how they fit in with the sectoral or macro-economic policies receiving Community support. They shall mention the use to which such countries have put previous Community aid in the same sector; any existing project evaluations for that sector shall be attached.

4. In order to speed up the procedures, financing proposals may cover overall amounts for the financing of:

- (a) training;
- (b) micro-projects;
- (c) trade promotion;
- (d) packages of small-scale operations in a specific sector;
- (e) technical co-operation.

#### ARTICLE 26

1. If the EDF Committee requests substantial changes to one of the proposals referred to in Article 25(1), or in the absence of a favourable opinion on the proposal, the Commission shall consult the representatives of the ACP State or States concerned.

Following such consultations, the Commission shall communicate the results to the Member States at the next meeting of the EDF Committee.

2. Following the consultations referred to in paragraph 1 the Commission may submit a revised or extended proposal to the EDF Committee at one of its subsequent meetings.

3. If the EDF Committee still refuses to deliver a favourable opinion, the Commission shall inform the ACP State or States concerned, which may then request either:

- that the matter be brought before the ACP-EEC Ministerial Committee referred to in Article 324 of the Convention (hereinafter called the "Development Finance Co-operation Committee"); or
- that it or they be given a hearing by the Community's decision-making bodies, on the conditions set out in Article 27(2).

#### ARTICLE 27

1. The proposals referred to in Article 25(1), together with the opinion of the EDF Committee, shall be submitted to the Commission for its decision.

2. If the Commission decides to differ from the opinion expressed by the EDF Committee or if the Committee has not delivered a favourable opinion, the Commission shall either withdraw the proposal or, at the earliest opportunity, refer the proposal to the Council, which shall decide on it according to the same voting procedure as the EDF Committee within a period which, as a general rule, may not exceed two months.

In the latter case, where a financing proposal is involved, the ACP State concerned may, if it has not decided to refer the matter to the Development Finance Co-operation Committee, forward to the Council, in accordance with Article 289(3) of the Convention, any additional information it considers necessary before the final decision is taken and may be heard by the President and the members of the Council.

#### ARTICLE 28

1. A Committee (hereinafter called the "Article 28 Committee") consisting of representatives of the Governments of the Member States shall be set up under the auspices of the Bank.

The Article 28 Committee shall be chaired by the representative of the Member State currently chairing the Board of Governors of the Bank; its secretariat shall be provided by the Bank.

A representative of the Commission shall take part in its work.

2. The Council, acting unanimously, shall adopt the rules of procedure of the Article 28 Committee.

3. The weighting of the votes of the Member States and the qualified majority applicable to the Article 28 Committee shall be those resulting from the application of Article 21(3), (4) and (5).

## ARTICLE 29

1. The Article 28 Committee shall deliver an opinion by qualified majority on requests for loans with interest rate subsidies and on proposals for financing by risk capital which are submitted to it by the Bank.

The Commission representative may, at meetings, submit the Commission's assessment of these proposals. This assessment shall cover the conformity of the projects with Community development aid policy, with the objectives of co-operation in development financing laid down by the Convention and with the general guidelines adopted by the ACP-EEC Council of Ministers.

The Committee may also discuss, if requested by the Bank, or with its agreement, by one or more Member States, general or specific issues relating to the implementation of the Bank's activities in ACP countries as well as issues arising from the evaluations of the Bank's activities envisaged in Article 30(6).

2. The document submitted to the Article 28 Committee by the Bank shall, in particular, explain the relevance of the project to the development prospects of the country or countries concerned and, where appropriate, indicate the situation as regards repayable aid granted by the Community and holdings acquired by it and the use made of previous aid in the same sector; any existing project evaluations for that sector shall be attached.

3. Where the Article 28 Committee delivers a favourable opinion in respect of a request for a loan with an interest rate subsidy, the request, together with the reasoned opinion of the Committee and, where appropriate, the assessment of the Commission representative, shall be submitted for a decision to the Board of Directors of the Bank, which shall act in accordance with the Bank's Statute.

In the absence of a favourable opinion from the Committee, the Bank shall either withdraw the request or decide to uphold it. In the latter event the request, together with the reasoned opinion of the Committee and, where appropriate, the assessment given by the Commission representative, shall be submitted for a decision to the Bank's Board of Directors, which shall act in accordance with the Bank's Statute.

4. Where the Article 28 Committee delivers a favourable opinion in respect of a proposal for financing by risk capital, the proposal shall be submitted for a decision to the Bank's Board of Directors, which shall act in accordance with the Bank's Statute.

In the absence of a favourable opinion from the Committee, the Bank, in accordance with Article 289(2) and (3) of the Convention, shall inform the representatives of the ACP State or States concerned, who may request either:

- that the matter be referred to the Development Finance Co-operation Committee,  
or
- that they be given a hearing by the competent body of the Bank.

At the end of that hearing the Bank may either:

- decide not to follow up the proposal; or
- request that the Member State chairing the Article 28 Committee refer the matter to the Council as soon as possible.

In the latter case, the proposal shall be submitted to the Council together with the reasoned opinion of the Article 28 Committee and, where appropriate the assessment of the Commission representative and any further information which the ACP State concerned considers the Council requires.

The Council shall act in accordance with the same voting procedure as the Article 28 Committee.

If the Council confirms the Article 28 Committee's position, the Bank shall withdraw its proposal.

If, however, the Council is in agreement with the Bank's proposal, the Bank shall implement the procedures laid down in its Statute.

## ARTICLE 30

1. The Commission and the Bank shall ascertain, each to the extent to which it is concerned, how the Community aid they administer is used by the ACP States, the countries and territories or any other recipients.
2. The Commission and the Bank shall also ascertain, each to the extent to which it is concerned and in close collaboration with the relevant authorities of the country or countries concerned, how projects financed with Community aid are used by the recipients.
3. When ascertaining how Community aid and projects are used, as provided for in paragraphs 1 and 2, the Commission and the Bank shall examine the extent to which the objectives referred to in Articles 220 and 221 of the Convention and in the corresponding provisions of the Decision have been attained.
4. The Bank shall regularly send the Commission all information relating to the implementation of projects financed from the Fund resources it administers.
5. The Commission and the Bank shall inform the Council, upon the expiry of the Financial Protocol annexed to the Convention, of their findings pursuant to paragraphs 1, 2 and 3. The report by the Commission and the Bank shall also contain an assessment of the impact of Community aid on the economic and social development of the recipient countries.
6. The Council shall be informed periodically of the results of work done by the Commission and the Bank on the evaluation of projects being carried out or completed, particularly in relation to development objectives set.

## CHAPTER V

### ARTICLE 31

1. The amounts of the Stabex transfers referred to in Part Three, Title 2, Chapter 1 of the Convention and in the corresponding provisions of the Decision shall be expressed in ecus.
2. Payments shall be made in ecus.
3. Each year the Commission shall draw up a comprehensive report for the Member States on the operation of the system of stabilization of export earnings and the use made by the ACP States of the funds transferred;

The report shall indicate in particular the effects of the transfers made on the development of the sectors to which they were allocated.

4. Paragraph 3 shall also apply as regards the countries and territories.

## CHAPTER VI

### ARTICLE 32

The provisions for implementing this Agreement shall be the subject of a Financial Regulation adopted, upon the entry into force of the Convention, by the Council, acting by the qualified majority laid down in Article 21(4), on the basis of a Commission draft, after an opinion has been delivered by the Bank on the provisions of concern to it and by the Court of Auditors established under Article 206 of the Treaty.

### ARTICLE 33

1. At the end of each financial year the Commission shall adopt the revenue and expenditure account and the balance sheet of the Fund.
2. Without prejudice to paragraph 5, the Court of Auditors established under Article 206 of the Treaty shall also exercise its powers in respect of the Fund's operations. The conditions under which the Court exercises its powers shall be laid down in the Financial Regulation referred to in Article 32.
3. The discharge for the financial management of the Fund shall be given to the Commission by Parliament on the recommendation of the Council, which shall act by the qualified majority laid down in Article 21(4).
4. The Commission shall make the information referred to in Article 30(4) available to the Court of Auditors so that the latter may on the basis of the documentary evidence carry out checks on the aid provided from the Fund's resources.
5. The operations financed from the Fund resources managed by the Bank shall be subject to the control and discharge procedure laid down by the Statute of the Bank for all its operations. Each year the Bank shall send the Commission and the Council a report on the execution of operations financed from the Fund resources managed by the Bank.
6. The Commission shall draw up periodically, in agreement with the Bank, lists of the information it receives from the latter in order to assess how the Bank is carrying out its brief and to encourage close co-ordination between the Commission and the Bank.

### ARTICLE 34

1. The remaining balance of the Fund set up under the Internal Agreement of 1975 on the financing and administration of Community aid shall continue to be administered as provided in that Agreement and in accordance with the rules and regulations in force on 1 March 1980.

The remaining balance of the Fund set up under the Internal Agreement of 1979 on the financing and administration of Community aid shall continue to be administered as provided in that Agreement and in accordance with the rules and regulations in force on 28 February 1985.

The remaining balance of the Fund set up under the Internal Agreement of 1985 on the financing and administration of Community aid shall continue to be administered as provided in that Agreement and in accordance with the rules and regulations in force on 28 February 1990.

2. In the event of successful completion of projects financed from the Funds referred to in paragraph 1 being jeopardized by a lack of resources owing to the remaining balance being used up, proposals for additional financing may be submitted by the Commission under the conditions laid down in Article 21.

### ARTICLE 35

1. This Agreement shall be approved by each Member State in accordance with its own constitutional requirements. The Government of each Member State shall notify the General Secretariat of the Council of the European Communities when the procedures required for the entry into force of this Agreement have been completed.
2. This Agreement is concluded for the same duration as the Financial Protocol annexed to the Convention. However, it shall remain in force for as long as is necessary for all the operations financed under the Convention and the Protocol to be fully executed.

ARTICLE 36

This Agreement, drawn up in a single original in the Danish, Dutch, English, French, German, Greek, Italian, Portuguese and Spanish languages, each of these texts being equally authentic, shall be deposited in the archives of the General Secretariat of the Council of the European Communities, which shall transmit a certified copy to each of the governments of the signatory States.

Done at Brussels on the sixteenth day of July in the year one thousand nine hundred and ninety.

[Here follow the Signatures on behalf of:

Belgium  
Denmark  
France  
Germany, Federal Republic of  
Greece  
Ireland  
Italy  
Luxembourg  
Netherlands  
Portugal  
Spain  
United Kingdom]