

<p>African, Caribbean and Pacific Group of States (ACP Group)</p>		<p>Groupe des Etats d'Afrique des Caraïbes et du Pacifique (Groupe ACP)</p>
<p>451 Avenue Georges Henri, 1200 Brussels, Belgium Bruxelles, Belgique</p>		<p>Avenue Georges Henri, 451, 1200</p>
<p>Tel: 32 2 743 06 00</p>	<p>email: info@acp.int</p>	<p>Fax: +32 2 735 55 73</p>

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**THIRD ACP-EEC CONVENTION SIGNED
AT LOME
ON 8 DECEMBER 1984**

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Final act

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,

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,

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", and the Council and the Commission of the European Communities, of the one part, and

Her Majesty the Queen of Antigua and Barbuda,

The Head of State of the Bahamas,

The Head of State of Barbados,

Her Majesty the Queen of Belize,

The President of the People's Republic of Benin,

The President of the Republic of Botswana,

The President of the National Revolutionary Council, President of Burkina Faso, Head of the Government,

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 ivory coast,

The President of the Republic of Djibouti,

The Government of the Commonwealth of Dominica,

The General Secretary of the Ethiopian Workers' Party, Chair

man of the Provisional Military Administrative Council and of

the Council of Ministers and Commander-in-Chief of the Re- volutionary Army of Ethiopia,

Her Majesty the Queen 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 Cooperative Republic of Guyana,
The Head of the State of Jamaican,
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,
His 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 Military 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 St Christopher and Nevis,
Her Majesty the Queen of Saint Lucia,
Her Majesty the Queen of Saint Vincent and the Grenadines,
The Head of Sate of Western Samoa,
The President of the Democratic Republic of Sao Tome and Principe,

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 Democratic Republic of the Sudan,
The President of the Republic of Suriname,
Her Majesty the Queen Regent 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,

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;

REAFFIRMING their adherence to the principles of the said Charter and their faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small;

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 economic order;

RESOLVED to make through their co-operation, a significant contribution to the economic development and social progress 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: Mr. Francois-Xavier DE DONNEA, State Secretary, Development Co-operation;

HER MAJESTY THE QUEEN OF DENMARK: Mr. K. E. TYGESEN, State Secretary, Ministry for Foreign Affairs:

THE PRESIDENT OF THE FEDERAL REPUBLIC OF GERMANY: Mr. Peter SCHOLZ, Ambassador Extra ordinary and Plenipotentiary of the Federal Republic of Germany to the Togolese Republic;

Dr Volkmar KOHLER, parliamentary State Secretary to the Federal Ministry for Economic Co-operation;

THE PRESIDENT OF THE HELLENIC REPUBLIC:

Mr Theodore PANGALOS, State Secretary, Ministry for Foreign Affairs;

THE PRESIDENT OF THE FRENCH REPUBLIC:

Mr Claude CHEYSSON, Plenipotentiary,

Mr Christian NUCCI,

Minister responsible to the Minister for External Relations;

Responsible for Co-operation and Development;

PRESIDENT OF IRELAND:

Mr Jim O'KEEFFE, T.D.,

Minister of State at the Department of Foreign Affairs

THE PRESIDENT OF THE ITALIAN REPUBLIC Mr. Mario FIORET,

Under Secretary of State, Ministry for Foreign Affairs

HIS ROYAL HIGHNESS THE GRAND DUKE OF LUXEMBOURG:

Mr. Robert GOEBBELS, State Secretary, Ministry for Foreign Affairs;

HER MAJESTY THE QUEEN OF THE NETHERLANDS:

Dr. W.F. VAN EEKELEN,

State Secretary, Ministry for Foreign Affairs;

HER MAJESTY THE QUEEN OF THE UNITED KINGDOM

OF GREAT BRITAIN AND NORTHERN IRELAND:

The Rt Honourable Timothy RAISON, M.P.,

Minister of State for Foreign and Commonwealth Affairs,

Minister for Overseas Development;

THE COUNCIL OF THE COMMISSION OF THE EUROPEAN COMMUNITIES:

Mr Peter BARRY,

Ministry for Foreign Affairs, Ireland

President-in-Office of the Council of the European Communities;

Mr Gaston THORN President of the Commission of the European Communities:

HER MAJESTY THE QUEEN OF ANTIGUA AND BARBUDA:

Mr Ronald SANDERS. Ambassador Extraordinary and Plenipotentiary. Head of the Mission of Antigua and Barbuda to the European Communities.

THE HEAD OF STATE OF THE COMMONWEALTH OF THE BAHAMAS:

Mr Richard C. DEMERITTE, High Commissioner to the United Kingdom:

THE HEAD OF STATE OF BARBADOS:

The Honourable H. B. St JOHN. QC, M.P.. Deputy Prime Minister and Minister of Trade. Industry and Tourism

HER MAJESTY THE QUEEN OF BELIZE:

Mr Rudolph I. CASTILLO, MBE Ambassador Extraordinary and Plenipotentiary. Head of the Mission of Belize to the European Communities;

THE President OF THE PEOPLE'S REPUBLIC OF BENIN:

Mr Soule DANKORO, Minister for Trade, Craft Trades and Tourism:

THE PRESIDENT OF THE REPUBLIC OF BOTSWANA:

The Honourable Mrs G. K. T. CHIEPE. Minister for Foreign Affairs:

THE PRESIDENT OF THE NATIONAL REVOLUTIONARY COUNCIL, PRESIDENT OF BURKINA FASO, HEAD OF THE GOVERNMENT:

Mr Yousouf OUEDRAOGO, Minister for Planning and Social Development:

THE PRESIDENT OF THE REPUBLIC OF BURUNDI:

Mr Stanislas MANDI,

Minister of the Presidency responsible for relations with the National Assembly;

THE PRESIDENT OF THE REPUBLIC OF CAMEROON:

Mr Yousoufa DAOUDA, Minister of State for Planning and Regional Development;

THE PRESIDENT OF THE REPUBLIC OF CAPVERDE:

Mr Silvino DA LUZ, Minister for Foreign Affairs;

THE PRESIDENT OF THE CENTRAL AFRICAN REPUBLIC :'

Mr Guy DARLAN,

High Commissioner for Planning, responsible for Economic Financial

Co-operation,

THE PRESIDENT OF THE ISLAMIC FEDERAL REPUBLIC OF THE COMOROS:

Mr Yahaia DJAMADAR, Roving Ambassador and Plenipotentiary;

THE PRESIDENT OF THE PEOPLE'S REPUBLIC OF THE CONGO:

Mr Pierre MOUSSA, Minister for Planning;

THE PRESIDENT OF THE REPUBLIC IVORY COAST:

Mr Abdoulaye KONE, Minister for Economic Affairs and Finance,

THE PRESIDENT OF THE REPUBLIC OF DJIBOUTI:

Mr Ahmed Ibrahim ABDI Ambassador Extraordinary and Plenipotentiary, Head of the Mission of the Republic of Djibouti to the European Economic Community;

THE GOVERNMENT OF THE COMMONWEALTH OF DOMINICA:

Mr Romeo Arden Coleridge SHILLINGFORD, High Commissioner to the United Kingdom;

THE GENERAL SECRETARY OF THE ETHIOPIAN WORKERS' PARTY, CHAIRMAN OF THE PROVISIONAL MILITARY ADMINISTRATIVE COUNCIL AND OF THE COUNCIL OF MINISTERS AND COMMANDER-IN-CHIEF OF THE REVOLUTIONARY ARMY OF ETHIOPIA:

Mr Ijigu MERSIE, Minister responsible for General Planning,

HER MAJESTY THE QUEEN OF FIJI:

Mr J.D.V. CAVALEVU,

Ambassador Extraordinary and Plenipotentiary,

Head of the Mission of Fiji to the European Communities;

THE PRESIDENT OF THE GABONESE REPUBLIC:

Mr Pascal NZE, Minister for Planning and Regional Development; THE PRESIDENT OF THE REPUBLIC OF THE GAMBIA:

The Honourable Sheriff Saikouba SISAY,

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,

Secretary for Finance and Economic Planning;

HER MAJESTY THE QUEEN C F GRENADA:

Mr Oswald Moxley GIBBS, CMG,

High Commissioner of Grenada to the United Kingdom;

THE PRESIDENT OF THE REPUBLIC OF GUINEA:

Captain Fode Momo CAMARA,

Minister for International Co-operation;

THE PRESIDENT OF THE COUNCIL OF STATE OF GUINEA-BISSAU:

Mr Bartolomeu Simoes PEREIRA,

Minister for Economic Co-ordination, Planning and International Co-operation;

THE PRESIDENT OF THE REPUBLIC OF EQUATORIAL
GUINEA:

Mr Fortunato NZAMBI MACHINDE.

Minister for Industry. Trade and Industrial Promotion;

THE PRESIDENT OF THE COOPERATIVE REPUBLIC OF GUYANA:

Mr Harold SAHADEO.

Ambassador Extraordinary and Plenipotentiary.

Head of the Mission of Guyana to the European Communities:

THE HEAD OF STATE OF JAMAICA:

Mr E. Frank FRANCIS, Permanent Secretary, Ministry for Foreign Affairs;

THE PRESIDENT OF THE REPUBLIC OF KENYA:

The Honourable E. MWANGALE Minister for Foreign Affairs;

THE PRESIDENT OF THE REPUBLIC OF KIRIBATI:

The Rt Honourable Timothy RAISON, M.P., Minister of State for Foreign and Commonwealth Affairs, Minister for Overseas Development, of the United Kingdom of Great Britain and Northern Ireland;

HIS MAJESTY THE KING OF THE KINGDOM OF LESOTHO:

The Honourable Dr K.T. MAPHATHE. Minister of Transport and Communications;

THE PRESIDENT OF THE REPUBLIC OF LIBERIA:

The Honourable Emmanuel O. GARDINER. Minister of Planning and Economic Affairs;

THE PRESIDENT OF THE DEMOCRATIC REPUBLIC OF MADAGASCAR:

Mr Georges Yvan SOLOFOSON, Minister for Trade;

THE PRESIDENT OF THE REPUBLIC OF MALAWI:

Mr E. C. Katola PHIRI, Minister of Trade, Industry and Tourism;

THE PRESIDENT OF THE REPUBLIC OF MALI:

Maitre Alioune Bondin BEYE. 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:

Lieutenant Colonel Ahmed OULD MINNIH. Member of the Military Committee for National Safety, Minister for Foreign Affairs and Co-operation:

HER MAJESTY THE QUEEN OF MAURITIUS:

The Honourable Nunkeswarsingh DEERPALSINGH. Minister for Agriculture, Fisheries and Natural Resources

THE PRESIDENT OF THE PEOPLE'S REPUBLIC OF MOZAMBIQUE:

Rei Baltazar dos SANTOS ALVES. Minister for Financial Affairs:

THE PRESIDENT OF THE SUPREME MILITARY COUNCIL. HEAD OF STATE OF NIGER:

Mr Almoustapha SOUMALIA. Minister responsible to the Prime Minister for Planning;

THE HEAD OF THE FEDERAL MILITARY GOVERNMENT OF NIGERIA:

Mr Job IROHA, Ambassador Extraordinary and Plenipotentiary.

THE PRESIDENT OF THE REPUBLIC OF UGANDA:

The Honourable Henry Milton MAKMOT. Deputy Minister of Finance.

HER MAJESTY THE QUEEN OF PAPUA NEW GUINEA:

The Honourable Rabbie L. NAMALIU CMG M.P. Minister for Foreign Affairs and Trade;

THE PRESIDENT OF THE RWANDESE REPUBLIC:

Mr Ambroise MULINDANGABO Minister for Planning,

HER MAJESTY THE QUEEN OF ST CHRISTOPHER AND NEVIS

Dr Claudius C. THOMAS, CMG,

Ambassador Extraordinary and Plenipotentiary, Head of the Mission of Saint Lucia to the European Communities;

HER MAJESTY THE QUEEN OF SAINT LUCIA:

Dr Claudius C. THOMAS, C.G. Ambassador Extraordinary and Plenipotentiary,

Head of the Mission of Saint Lucia to the European Communities;

HER MAJESTY THE QUEEN OF SAINT VINCENT AND THE GRENADINES:

Dr Claudius C. THOMAS, CMG, Ambassador for Extraordinary and Plenipotentiary Head of the Mission of Saint Lucia to the European Communities;

THE HEAD OF STATE OF WESTERN SAMOA:

The Honourable Tuilaepa SAILELE Minister of Financial Affairs;

THE PRESIDENT OF THE DEMOCRATIC REPUBLIC OF SAO TOME AND PRINCIPE:

Dr Carlos Alberto TINY, Minister for Co-operation;

THE PRESIDENT OF THE REPUBLIC OF SENEGAL:

Mr Abdourahmane TOURE, Minister for Trade;

THE PRESIDENT OF THE REPUBLIC OF SEYCHELLES:

Mr Calyxte D'OFFAY, Ambassador Extra ordinary and Plenipotentiary, Director for External Relations;

THE PRESIDENT OF THE REPUBLIC OF SIERRA LEONE:

The Honourable Salia JUSU-SHERIFF, M.P. Minister of Development and Economic Planning;

HER MAJESTY THE QUEEN OF THE SOLOMON ISLANDS:

The Rt Honourable Timothy RAISON, M.P. Minister of State for Foreign and Commonwealth Affairs,
Minister for Overseas Development, of the United Kingdom of Great Britain and Northern Ireland;

THE PRESIDENT OF THE SOMALI DEMOCRATIC REPUBLIC:

Mr Mohamed Omar GIAMA,

Ambassador Extraordinary and Plenipotentiary, Representative of the Somali Democratic Republic to the
European Communities;

THE PRESIDENT OF THE DEMOCRATIC REPUBLIC OF THE SUDAN:

Mr MOHAMED EL HASSAN AHMED EL HAG,

Minister of the Presidency for Secretariat General Affairs;

THE PRESIDENT OF THE REPUBLIC OF SURINAME;

Mr Imro E. FONG POEN,

Minister of Transport, Trade and Industry;

HER MAJESTY THE QUEEN REGENT OF THE KINGDOM OF SWAZILAND:

The Honourable Mr Mhambi M. MNISI, Minister of Foreign Affairs;

THE PRESIDENT OF THE UNITED REPUBLIC OF TANZANIA:

The Honourable Professor Kighoma A. MALI Minister for Planning and Economic Affairs:

THE PRESIDENT OF THE REPUBLIC OF CHINA,

Mr Amos REOIJLENGAR,

State Secretary, Economic Affairs and Trade;

THE PRESIDENT OF THE TOGOLESE REPUBLIC

Mr Yaovi ADODO Minister for Planning and Industry;

HIS MAJESTY KING TAUFA'AHU TUPOU IV TONGA:

His Royal Highness Crown Prince TUPOUTO'A Minister for Foreign Affairs and Defence;

THE PRESIDENT OF THE REPUBLIC OF TRINIDAD AND TOBAGO:

The Honourable Desmond CARTEY,

Minister of Industry, Commerce and Consumer affairs:

HER MAJESTY THE QUEEN OF TUVALU:

Mr J. D. V. CAVALEVU,

Ambassador Extraordinary and Plenipotentiary Head of the Mission of Fiji to the European Communities;

THE GOVERNMENT OF THE REPUBLIC OF VANUATU:

The Honourable Sela MOLISA, M.P.

Minister for Foreign Affairs and Trade THE PRESIDENT OF THE REPUBLIC OF ZAIRE:

Mr TSHIBWABWA ASHILA PASHI

Ambassador Extraordinary and Plenipotentiary. Member of the Central Committee;

THE PRESIDENT OF THE REPUBLIC OF ZAMBIA:

The Honourable Leonard S. SUBULWA. M.P. Minister of Commerce and Industry;

THE PRESIDENT OF THE REPUBLIC OF ZIMBABWE:

The Honourable R. C. HOVE, 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, strength and render more effective the system of co-operation established under the first and second ACP-EEC Conventions and confirm the special character of their relations, based on their reciprocal interest, and the specific nature of technical 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 relation 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-cooperation, 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 in ACP-EEC co-operation for the ACP States' own efforts to achieve more self-reliant and selfsustained 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 and economic progress and the well-being of their population 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.

Article 5

With a view to attaining more balanced and more selfreliant economic Development in the ACP States, special efforts shall be made under this Convention to promote rural development food security for the people and the revival and strengthening of agricultural production potential in the ACP States.

Article 6

In order to strengthen the ACP States collective reliance this Convention shall constitute support efforts to organize themselves into regional grouping step up their co-operation at regional and inter-regional. In this context of co-operation, special attention paid to the implementation of operations which are partly suited to the regional dimension and require an effort.

Article 7

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

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

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

Article 8

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 objective set out in this Convention and to the implementation of and technical assistance and the other co-operation meets in a co-ordinated manner

With this in mind, they agree to pursue the dialogue, within the joint institutions, to seek ways and means, rendering those instruments ever more effective.

Article 9

Within the scope of their respective responsibilities, the institutions of this Convention shall examine periodic 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 raise context of the institutions.

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

Where the Community intends in the exercise of its to take a measure which might affect the interests of ACP States as far as this Convention's objectives are concerned it shall inform the said States of its intentions. Where necessary, the exchange of information may also take place on the initiative of the ACP States. At their request, consultations held in good time so that account may be taken of their concerns before any final decision.

CHAPTER 2

Objectives and guidelines of the Convention in the main areas of co-operation

Article 10

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 mea sores adopted by those States to enhance their human re sources, 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.

Article 11

In the framework of efforts to protect the environment and restore natural balances, co-operation shall contribute in particular towards the control of drought and desertification ant the implementation of other

campaigns to that end.

Article 12

Agricultural co-operation shall be aimed at the pursuit of food self-sufficiency and food security in the ACP States, developing and organising 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 held shall be designed and executed to Support the agricultural and food policies or strategies adopted by the ACP States.

Article 13

Co-operation in the fields 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 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 major 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 development it of the different economic and social sectors and thus behold to improve living conditions and the environment, leading to the better conservation of biomass resources, particularly fuelwood.

Article 14

The Contracting Parties, acknowledging the crucial role of industry as a driving force in economic and social development, are determined to ensure a balanced. self-reliant development in the ACP States based on those States' own priorities. They agree to foster industrial development in the ACP States with a view to strengthening those States' efforts to promote their collective self-reliance and increase their share of world trade

Article 15

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

Principles governing the instruments of co-operation

Article 16

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;
- 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 17

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 18

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

They shall be based on the principle of free access to the Community market for products c Originating in the ACP States with special provisions for agricultural products and a safe guard 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 19

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 population's standard of living and well-being.

Such contribution shall be made on predictable and regular bases. They shall be accorded on the most liberal terms possible for the Community. Particular account shall be taken of the situation of the least-developed ACP States.

Article 20

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 provide equitable and stable conditions for the treatment of such investment.

Article 21

Given the extreme dependence of the economies of the vast majority of ACP States on their exports of agricultural commodities, the Contracting Parties agree to pay particular attention to their co-operation in this sector with a view to supporting ACP government policies or strategies designed to restore and improve production and marketing conditions and local processing.

The Contracting Parties also 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 forums and organisations 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 4

Institutions

Article 22

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

Article 23

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 the 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 its helping to solve problems fundamental to the joint and save 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 ongoing contacts between the economic and social sectors in the Communities 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 an establishing an effective dialogue between these sectors and securing their contribution to the co-operation and development effort.

Article 24

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 25

1. The Joint Assembly shall be composed of equal number of, on the one hand, members of the European Parliament or 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 need for solidarity in development;

elect 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 organise regular contacts and consultations with representatives of economic and social sectors 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

Agricultural rural development and conservation of natural resources

CHAPTER 1

Agricultural Co-operation and food security

Article 26

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

- supporting that 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 population with sufficient food and ensure a satisfactory level of nutrition:
- reinforcing food security at national, regional and interregional level;
- guaranteeing the rural population incomes that will significantly improve their standard of living:
- promoting the active participation of the rural population in their own development by organizing small farmers into associations and integrating them more effectively into national and international economic activity:
- creating satisfactory living conditions and a satisfactory life style 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;
- diversifying job-creating rural; activities and expanding activities that back up production;
- improving production by on-the-spot processing of the products of agriculture, including live stock farming, and fisheries and forestry;
- ensuring a balance between food crops and export crops:
- developing agricultural research tailored to the natural and human environment of the country and the region and meeting extension service needs;

- in the context of the above objective, protecting the natural environment, particularly through specific operations to control drought and desertification.

Article 27

1. Operations to attain the objectives referred to in Article 26 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 28

1. Development of production calls for increased 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 modernising cultivation techniques and making better use of factors of production (improved varieties and breeds, agricultural equipment, fertilisers. 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 health. including the development of the infrastructure required for that purpose;
- better integration of at-able and livestock farming:
- in the sphere of fisheries, modernising fish-farming and developing aqua culture.

2. Other prerequisites for the development of production are:

- the extension of secondary and tertiary back-up activities for agriculture. such as the manufacture modernisation and promotion of agricultural and rural equipment and other inputs and. where necessary, their importation;
- the establishment or consolidation of agricultural 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 at-eater productivity and to improving farmers incomes.

Article 29

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 30

Rural promotion measures shall involve:

- the organization of producers within associations or communities in order to enable them to derive more benefit to joint contracts and investment and jointly owned equipment;
- the development of social and cultural activities (such as health, education and culture) essential for improving rural life styles;
- suitable extension services to train farmers;
- improving the training of instructors at all levels;

Article 31

Co-operation in agricultural 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.

Article 32

Agricultural co-operation schemes shall be carried out in accordance with the detailed provisions and procedures laid down for financial and technical 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 coordinated approach to production and marketing problems.
- participation in the constitution of funds for agricultural credit facilities.
- opening of credit lines for trade organizations representing farmers, artisans and small-scale industrial operators in rural areas, geared to their activities (such as supplies, primary marketing and storage), and also for associations implementing the 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 maintenance, packaging, storage transport and processing of products.

Article 33

1. Community measures aimed at food security 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 the 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 34

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 requirement expressed by those States.

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

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

Article 35

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

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

(a) except in urgent cases, Community food aid, which is 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 resulting counterpart funds shall be used to finance the continuation or running of projects or programmes with a major development component:

(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 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, 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 States concerned.

Article 36

In implementing this Chapter, special attention shall be paid, at the request of the countries concerned, 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 security. In this context, co-operation shall bear in particular on the productive sectors (including the supply of inputs), transport, marketing, packaging and the setting-up of storage infrastructure;
- establishing a security stock system in landlocked States in order to avoid the risk of breaks in supply;
- diversifying agricultural commodities production and improving food security in the island States.

Article 37

1. The Technical Centre for Agricultural and Rural Co-operation shall be at the disposal of the ACP States in order to provide them with better access to information, research, training and innovations in the spheres of agricultural and rural development and extension. 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) ensure, 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 (including the planning of agricultural and rural development and the preparation, implementation and evaluation of agricultural and rural development operations);
- (b) refer the ACP States requests for information to the bodies qualified to deal with them, or deal directly with such requests;
- (c) 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;
- (d) 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;
- (e) foster the exchange of information between those engaged in agricultural and rural development on the results of field work carried out in the context of agricultural and rural development operations;
- (f) sponsor and help organize meetings of specialists, research workers, planners and development personnel so that they may exchange experience gained in specific ecological environments;
- (g) 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 the existing qualified bodies;
- (h) help facilitate the adaptation of available information to the needs of the ACP States' departments responsible for development training and extension services.
- (i) facilitate the dissemination of information concerning agricultural research and extension work, 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. 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 financial and technical co-operation.

5. (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 limits 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.

6. (a) In order 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 38

1. The ACP States and the Community recognize that the physical, economic and political existence of certain ACP States is threatened by endemic drought and growing desertification, which destroy all efforts at development, in particular those aimed at achieving the priority objective of self-sufficiency and food security.

2. The two parties agree that in a number of ACP States control of drought and desertification constitutes a pressing and imperative need for the success of any development undertaking.

3. The same will apply eventually to the States bordering the affected areas, for which this phenomenon represents a real threat to their fragile social and ecological equilibrium.

Article 39

The two parties recognize that halting the deterioration of land and forest potential, re-establishing ecological equilibria, protecting natural resources and exploiting them efficiently constitute *inter alia*, fundamental objectives which the ACP States concerned endeavour to attain with the support of the Community, notably in order to improve their peoples living conditions.

Article 40

1. The scale, in space and time, of the phenomenon and also of the resources to be deployed, means that the operations to be undertaken must form part of overall, long-term policies designed and applied by the ACP States at national, regional

and international level the context of international solidarity.

2. To this effect, the two parties agree to lay stress on the implementation of c. Campaigns with specific themes backed up not only by the resources of this Convention, but also by all other means of support that can be mobilized.

3. Remedying the situation of countries affected or threatened by these calamities, and promoting their lasting development, calls for a general policy to encourage the restoration of natural balances by means of better water control and a campaign against practices encouraging the appearance and development of the phenomenon of desertification

Article 41

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 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 groundwater and improving management of these resources 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.

Article 42

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

1) - the extension of agro-forestry 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 up research, application of. and information on, new and renewable sources of energy such as wind, solar and bio energy, and by the use of improved stoves with a grease er heat yield.

3) the development management of forestry resources by setting up, at national or regional level, forestry management plans aimed at op the exploitation of forestry resources;

4) the pursuit of on going 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.

Article 43

The Community shall provide support for the efforts deployed by the ACP States at national level and for operations undertaken by intergovernmental and non-governmental organizations in the context of nation and intergovernmental options and priorities.

CHAPTER 3

Co-operation on agricultural commodities

Article 44

Given the extreme dependence of the economies of the majority of ACP States on their exports of agricultural modifies and the deterioration in the position of exports I the ACP States on the markets in these products. coupled the excessive fluctuations of their prices on the world ma the Contracting Parties hereby express their determination continue, reinforce and intensify their co-operation in this sector.

Article 45

To this effect, co-operation in the sector of agricultural commodities shall be planned and implemented of in support policies or strategies adopted by the ACP State and aim, inter alia, to:

- support ACP States' action designed to restore and improved involving production and marketing conditions, involving research training, investment, supply and production of inputs extension work, as well as action in fields such as credit, storage, conservation and transport;
- help diversify production with a view to reducing external dependence and ensuring better adjustment to market demands;
- encourage local processing which will create added value in economically viable conditions;
- stimulate specific action to facilitate the marketing of products;
- help train ACP operators to make better use of all the mechanisms of world commodity markets.
- stimulate and stabilize the commodities sector in the commodities of the ACP States.
- encourage a greater flow of private investment to this sector.

Article 46

In order to achieve these objectives, the Contracting parties agree to:

- (a) undertake concerted action so as to facilitate the pursuit this Convention's objectives in the area of commodities;
- (b) strive actively to create the conditions most conducive to the development of production and the improvement of marketing;
- (c) make judicious use of all the instruments and resources this Convention which may be of help to this sector.

Article 47

In view of the importance and persistence of problem relating to agricultural commodities, the two parties agree to ensure that co-operation in these matters is subject to sustained and through monitoring. To this end, they agree to set up an agricultural Commodities Committee, the functions of which shall be to:

- (a) monitor the general application of this Convention in the agricultural commodities sector;
- (b) examine any general problems concerning ACP-EEC trade in commodities which may be referred to it by the relevant subcommittees established in accordance with this convention;
- (c) recommend suitable measures to solve such problems

Article 48

The Agricultural Commodities Committee, of which the rules of procedure shall be laid down by the Council of Ministers, shall be composed of representatives of the ACP States and of the Community

appointed by the Council of Ministers

In accordance with Article 272(2), its work shall be supervised by the Committee of Ambassadors. As a rule it shall meet quarterly and, should the Council of Ministers so decide in accordance with Article 270, at ministerial level

Article 49

Efforts shall be made to intensify the process of ongoing consultation between the ACP States and the Community, and in international forums and organisations which aim to stabilize agricultural commodity markets. To this end, exchanges of views may take place, at the request of either party, when it is intended to conclude or renew an international agricultural commodity agreement. The aim of such exchanges of views shall be to take account of the respective interests of each party where the conclusion or renewal of an agreement is envisaged.

TITLE II

Development of fisheries

Article 50

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 recognising in 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 51

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 111. Part Three, of this Convention shall be applied to fisheries

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

- 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 to rural development by giving importance to the role they play in strengthening food security, improving nutrition and rural living standards.
- increase the contribution of fisheries to industrial development by increasing catches, output and exports.

Article 52

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

(a) fisheries production, including the acquisition of boats, equipment and near the development of infrastructure for

rural fishing communities and the fishing industry and support for aqua culture projects, notably by providing specific lines of credit to appropriate ACP institutions for on lending to the operators concerned;

(b) fisheries management and protection, including the assessment of fish stocks and of aqua culture potential, the improvement of environmental monitoring and control and the development of ACP coastal states' capacities for the management of the fishery resources in their exclusive economic zone;

(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 53

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 54

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

Article 55

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 56

Where ACP States situated in the same subregion as territories to which the Treaty establishing the European Economic Community (hereinafter referred to as the Treaty) 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 55, taking account of their specific situation in the region and of the objective of strengthening regional cooperation between those

territories and the neighbouring ACP States.

Article 57

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 58

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 284.

Article 59

The mutually satisfactory conditions referred to in Article 58 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 licencing fees and, where appropriate, any other elements agreed by the parties to the fishery agreement, such as obligatory landing of part of the catch, employment of ACP nationals taking on board of observers, transfer of technology, research and training grants.

Compensation shall relate to the scale and value of the landing opportunities provided in the exclusive economic zone of the ACP States.

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 concerned.

TITLE III

Industrial development

Article 60

The Community and the ACP States, acknowledging that industrialisation is a driving force in bringing

about balanced and diversified economic and social development and creating conditions conducive to the attainment of the ACP States' collective self-reliance. agree to promote industrial development in the ACP States with a view to providing them with a framework for strengthening their share of world trade.

Article 61

The aim of industrial co-operation between the Community and the ACP States shall be, in particular, to derive full benefit from those States' human and natural resources through the modernisation of their societies, to create jobs, to generate and distribute income, to facilitate the transfer of technology and its adaptation to conditions in the ACP States and their specific needs, to foster complementarity of the different branches of industry and between industry and the rural sector in order to make full use of that sector's potential, and to promote new relations of dynamic complementarity in the industrial field between the Community and the ACP States.

Account shall be taken in industrial co-operation of the need to establish and strengthen an economic, technical, social and institutional environment conducive to industrialization phases shall be placed on the development of all types of appropriate industries, training and co-operation between firms in the Member States of the Community and in the ACP States.

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

Article 62

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 financial and technical co-operation and, in particular those which are the responsibility of the European Investment Bank (hereinafter referred to as 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 the conformity with Title III, Part three of this Convention, having regard to the particular characteristics of aid operations in the industrial sector.

Article 63

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

Article 64

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 the ACP States, and between the latter and those of other developing countries.

Article 65

The Community shall assist in the establishment and expansion of all types of viable enterprises which have been identified the ACP States as important if terms of their development objectives.

The Community and the ACP States shall place special emphasis on the restoration, upgrading, reorganization or restructuring of existing industrial capacities which are viable but temporarily out of action or performing badly and also on the maintenance of plant and equipment and of enterprises and, for this purpose, industrial co-operation shall be focused on assistance for the start-up or rehabilitation of such enterprises and on the relevant forms of training at all levels.

Particular attention shall be paid to

- industries for the domestic processing of ACP raw materials;
- agro-industries:
- integral industries capable of creating links between the different sectors of the economy.
- industries which have a favourable effect on employment. the trade balance and regional integration.

Community financing shall take the form. as a matter of priority, of loans front the Bank on its own resources and of risk capital. these being the specific financing methods for industrial enterprises.

Article 66

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

The aim of such activities shall be to intensify the regular exchange of information, organize the contacts required; he ah. 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 undertakings in the Member States of the Community and in the ACP States.

Article 67

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 can also help with sector 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 cooperation and contact between small and medium-sized enterprises in the Member States and the ACP States.

Article 68

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 minimise costs, the Community, through the instruments of financial and technical 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 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 69

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 standardisation of manufactured goods, in accordance with Articles 190 and 191 and taking into account Articles 95 and 96.

Article 70

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;

- (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 industrial co-operation and facilitating the industrial development of the ACP States;
- (d) establish the general strategy of the Centre for the Development of Industry referred to in Article 71, appoint the director and deputy director, nominate the members of the Governing Board, appoint the two auditors, apportion, on an annual basis, the overall financial allocation provided for in Article 73(4) and examine, on the basis of the Centre's annual report, the deployment of these resources in order to assess whether the Centre's activities are in conformity with the objectives assigned to it in this Convention and report to the Committee of Ambassadors and through it, to the Council of Ministers;
- (e) 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.

Article 71

The Centre for the Development of Industry shall help to establish and strengthen industrial enterprises in the ACP States, particularly by encouraging joint initiatives by economic operators of the Community and the ACP States.

As a practical operational instrument, the Centre shall assist in the identification, promotion and implementation of viable industrial projects that meet the needs of ACP States, taking special account of domestic and external market opportunities and possibilities for the processing of local raw materials making optimum use of the ACP States' endowments by of factors of production.

In its efforts to help in establishing and strengthening industrial undertakings in the ACP States, the Centre shall take appropriate measures within the limits of its resources and its functions in the field of transfer and development of technology, industrial training and information.

In carrying out the above tasks, the Centre shall operate selectively by giving priority to small and medium sized industrial enterprises and rehabilitation operations, restoring existing viable industrial capacities to full utilization. It shall place special emphasis on opportunities for joint ventures and subcontracting.

The Centre shall act in close co-operation with the ACP States, the Member States and also the Commission and Bank within their respective areas of responsibility. Its activity shall be subject to periodic evaluation.

Article 72

In the framework of the objectives set out in Article 71 Centre's functions shall be to:

- (a) gather and disseminate all relevant information concerning trends in industrial sectors in the Community and the States;
- (b) carry out studies, market research and evaluation work gather and disseminate all relevant

information on the in trial co-operation situation and opportunities and notably the economic environment, the treatment which would-be investors may expect and the potential of viable industrial projects;

(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) 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 ACP States, and at facilitating the implementation of appropriate schemes;

(e) supply information and also specific advisory services expertise, including feasibility studies, with a view to expecting the establishment or restoration of industrial enterprises;

(f) identify potential partners of the ACP States and the community for joint investment operations and assist in the implementation and follow-up:

(g) identify and evaluate. on the basis of needs indicate ACP States, opportunities for industrial training, chiefly the-job, to meet requirements of existing as well as projected industrial undertakings in ACP States and where appropriate assist in the implementation of appropriate schemes.

(h) identify, collect. evaluate and supply information and advice on the acquisition. adaptation and development of appropriate industrial technology relating to specific projects where appropriate, assist in the setting-up of experimental and demonstration schemes.

(i) identify, appraise, evaluate, promote and assist in the implementation of viable industrial pro sects Of the ACP States;

(j) help, in appropriate cases, to promote the marketing of manufacturers 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;

(k) identify and provide inform; Nation on possible sources of financing and, where necessary, assist in the mobilisation of funds from these sources for industrial projects in ACP States.

Article 73

1. The Centre shall be headed by a director assisted by a deputy director, both of whom shall be appointed by the Committee on Industrial Co-operation.

2. A joint Governing Board she

(a) advise and back up the director in providing impetus and motivation and in managing the Centre.

(b) take the following decisions:

- approve the budgets and annual accounts:

- establish multiannual and annual programmes of activities;

- approve the annual report;

- establish the organisational structures, staffing policy and establishment plan.

(c) transmit an annual report to the Committee on Industrial Co-operation.

3. The Governing Board shall be composed of persons with substantial experience in the private or public industrial and banking sectors or in industrial development planning and promotion. They shall be chosen on a personal basis on the - grounds of their qualifications from among nationals of the States party to this Convention and appointed by the Committee according to the procedures laid down by it. A representative of the Commission and of the Bank shall take part in the Board's proceedings. The secretariat shall be provided by the centre.

4. The Community shall contribute to the financing of the Centre's budget by means of a separate allocation of a maximum of 40 million ECU taken from the resources earmarked under Article 112 for the funding of regional co-operation projects.

5. Two auditors appointed by the Committee shall audit the financial management of the Centre.

6. The Centre'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 74

In implementing this Title, the Community shall pay special attention to the specific needs and problems of the least-developed, landlocked and island States, notably in the following areas:

- processing of raw materials;
- development, transfer and adaptation of technology,
- development and financing of schemes in favour of small and medium-sized industrial enterprises;
- development of industrial infrastructure and energy and mining resources;
- adequate training in the scientific and technical areas.

The Centre for the Development of industry shall pay special attention to the specific problems that arise as regards promotion of industrialisation activities of the least-developed, landlocked and island ACP States.

At the request of one or more least-developed ACP States, the Centre shall grant special assistance for identifying on the spot, examining, assessing, preparing, promoting and assisting in the implementation of industrial projects in the ACP State concerned.

TITLE IV

Development of mining and energy potential

Article 75

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, 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 76

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, and shall be directed at the following goals in particular:

- (a) promoting economic development by exploiting domestic and regional energy resources;
- (b) improving living conditions in urban and suburban areas and in rural communities by taking due account of the energy component in the various co-operation measures;
- (c) protecting the natural environment, notably by mitigating the impact of population pressure on biomass consumption, particularly that of fuelwood.

Article 77

In order to attain the abovementioned objectives, energy cooperation 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, particularly by having recourse to new and renewable energy sources;
- (d) implementing suitable programmes involving small and medium-scale energy development projects, particularly those aimed at saving and providing substitutes for fuelwood;
- (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 market power needs in the energy sector;
- (g) stepping up the ACP States' research and development capacities, 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;
- (i) encouraging energy co-operation between ACP States in the energy sector, with or without excluding operations between those States and other, neighbouring states receiving Community aid.

Article 78

The aims of co-operation in mining shall be to help develop the mining sector of the ACP States concerned so as to ensure a satisfactory return from mining operations, for the overall development of those States. The Contracting Parties stress their mutual dependence in the sector and agree to use in coordinated fashion the Convention's various means of action in this field as well as other Community instruments where appropriate.

Article 79

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

Article 80

In order to facilitate the development of the mineral 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 program with the ACP States in their prospecting and exploration efforts at all stages, both onshore and on the continents 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 81

With the aim of supporting efforts to exploit the ACP mining resources, the Community shall contribute towards support of projects to rehabilitate, maintain, rationalize, and modernise 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, including small medium-scale projects, to an extent compatible with investment and management capacities as well as market trends, taking particular account of the financing of feasibility and investment studies.

It shall also support efforts of the ACP States to reinforce back-up infrastructure and assist with fitting mining operations into the social and economic fabric of the States concerned.

Article 82

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 mining and energy potential in accordance with the procedures laid down in 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 and mining projects, the Community shall give assistance in the form of risk capital, possibly in conjunction with contributions of capital from the ACP State concerned and other sources of financing in accordance with the procedures laid down in Article 199.

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 capital, including co-financing.

Article 83

The Bank may, in accordance with its Statute, commit its own resources on a case-by-case basis beyond the amount fixed in Article 194 in mining and energy investment projects recognised by the ACP State concerned and by the Community as being of mutual interest.

TITLE V

Transport and communications

Article 84

1. Co-operation in the area of transport shall be aimed at the development of road transport, rail 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 post services and telecommunications, including radiocommunications.
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 system serving the requirements of social and economic development and adjusted to the needs of users and to the overall economic situation of 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 ACP States, while facilitating their adjustment to technological progress;
 - (e) the reduction of barriers to frontier-crossing transport and communications, in terms of regulations and administrative procedures.

Article 85

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 in the transport and communications systems.

Article 86

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 principles of unrestricted access to the trade, on a commercial basis.

Article 87

1. The Contracting Parties underline the importance of the United Nations Convention on a Code of Conduct for Liner Conferences 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.
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 as long as they comply with the principle of fair competition on a commercial basis.

Article 88

Attention shall be given in the context of co-operation to encouraging the efficient shipment of cargoes 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 89

In the framework of financial and technical assistance for shipping, special attention shall be given to technology transfer including multimodal transport and containerization, to the promotion of joint ventures and, notably through vocational training, to the setting-up of appropriate legislative and administrative infrastructure and the improvement of port management, to the development of inter-island shipping services and connecting infrastructure and to increased co-operation with economic operators.

As far as technical assistance for insurance is concerned, the procedures shall be those provided for in the framework of the development of trade and services.

Article 90

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

Article 91

In order to ensure the effective implementation of Articles 86 to 90, 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 9.

Article 92

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 in the fields of meteorology and remote sensing.

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

Article 93

In all fields of transport and communications, 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.

Article 94

Co-operation activities in the transport and communication fields shall be carried out in accordance with the provisions and procedures laid down in Title 111. Part Three, of this Convention.

TITLE VI

Development of trade and services

Article 95

With a view to attaining the objectives set out in Article 129, the Contracting Parties shall implement measures for the development of trade and services at all stages up to final distribution of the product.

The object is to ensure that the ACP States derive 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, regional and international markets by diversifying the range and increasing the value and volume of ACP States' trade in goods and services.

Article 96

1. In promoting the development of trade and services, including tourism, 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 and improve regional cooperation in trade and services.

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

- the establishment of a coherent trade strategy;
- basic and further vocational training of personnel engaged in the fields of trade and services;
- the establishment and strengthening of organisations in the ACP States whose task it is to develop trade and services;

- increasing contacts and exchange of information between economic operators, including participation in fairs and exhibitions;
- support for the ACP States' efforts to improve the quality of their products, adapt them to market requirements and diversify their outlets;
- support for the ACP States' efforts to improve service infrastructure, including, transport and storage facilities.

3. Participation of the least-developed, landlocked and island ACP States in the various activities to develop trade and services, including tourism, shall be encouraged by special provisions, such as the payment of travel expenses of personnel and costs of transporting articles and goods that are to be exhibited. On the occasion of their participation in fairs and exhibitions.

Article 97

Action for the development of ACP trade and services shall include specific co-operation in the field of tourism. The purpose of such co-operation shall be to support the ACP States efforts to improve services in this industry. Particular attention shall be given to the need to integrate tourism into the social cultural and economic life of the people in accordance with Articles 116 and 117.

Article 98

Provision of financial and technical co-operation, in accordance with the procedures and regulations laid down in Title 111 Part Three, of this Convention, may be applied to tourism development measures at both national and regional levels. IN addition to the main guidelines set out in Articles 95 and 96 and to the provisions for the development of small and medium-sized enterprises and artisanal activities set out in Article 67, these measures shall cover, inter alia, the following areas:

- development, rehabilitation and maintenance of tourism facilities, such as sites and monuments of national importance;
- training in specific skills in tourism planning and development;
- marketing, including participation in international fairs and exhibitions, promotion and advertising;
- research and development activities related to the development of the tourism industry;
- collection, analysis, dissemination and utilisation of quantitative and qualitative tourism data;
- intra-ACP co-operation in the field of tourism ;

Article 99

Within the framework of the instruments provided for in this Convention and in accordance with Articles 94 and 9: 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 100

In addition to the appropriations which within the framework of the national indicative programmes referred to in Article 215, may be allocated by each ACP State to the financing operations to develop the

fields referred to in Articles 95 to 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 112, to a sum of 60 million ECU.

TITLE VII

Regional co-operation

Article 101

The Community shall support the ACP States' efforts to promote collective and self-reliant social, cultural and economic development and greater regional self-sufficiency.

In order to strengthen the ACP States' collective capabilities, the Community shall provide effective aid to achieve the objectives and priorities which they have set themselves in the context of regional co-operation, including inter-regional and intra-ACP co-operation

Article 102

1. Regional co-operation shall cover operations agreed on between:

- _ two or more ACP States,
- _ one or more ACP States and one or more neighbouring non-ACP States, countries or territories,
- _ two or more regional bodies of which the 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 operations 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 103

In the context of regional co-operation, special attention shall be paid to:

- (a) evaluation and utilization of existing and potential dynamic complementarities in all relevant sectors;
- (b) maximisation of the use of ACP human resources as well as the optimum and judicious exploration, conservation, transformation and exploitation of ACP natural resources;
- (c) acceleration of economic diversification and intensification of co-operation and development within and between the regions of the ACP States;
- (d) promotion of food security;
- (e) 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;
- (f) fullest use of economies of scale wherever a regional solution is more efficient than a national solution:

- (g) expansion of ACP States' markets by promoting trade between ACP States and between the ACP States and neighbouring third countries;
- (h) integration of the ACP States markets by liberalizing intra-ACP trade and eliminating tariff, monetary and administrative barriers;
- (i) any action in support of regional integration;

Article 104

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

Article 105

The Community shall provide financial and technical assistance to regional bodies, or for the creation of new ones where they are essential for attaining the objectives of regional co-operation.

Article 106

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 does not satisfy criterion (a) or (b) but the accompanying costs and benefits are unequally shared out among the beneficiary countries.

Article 107

Without prejudice to Article 106, the amount of the Community contribution under regional co-operation shall in respects 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 mutual commitments in respect of an operation, notably as regards the distribution of the facilities, investment and the running thereof;
- (c) the operation is the regional expression of a sectoral strategy;

Article 108

1. Requests for financing from the funds earmarked for regional co-operation shall be presented by each

of the ACP States participating in a regional operation.

2. Wherever an operation of regional co-operation is such as to be of interest to other ACP States the Commission shall in agreement with the 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.

Not with standing 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.

3. Where a single ACP State is associated with non-ACP countries, as provide for in Article 109. its request alone shall suffice.

4. 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 their members that are ACP States.

5. Each request for regional co-operation funding must include, where necessary, proposals concerning:

(a) the ownership of the goods and services to be financed as part of the operation, and the division of responsibilities for operation and maintenance.

(b) the choice of the regional authorizing officer and the State or body authorised sign the financing agreement on behalf of all the participating tiny ACP States or bodies.

Article 109

The ACP State or States or regional bodies participating in a regional operation with third countries as provided for in Article 102 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 110

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 111

With a view to encouraging regional co-operation between them 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 112

Of the financial resources earmarked in Article 194 for the social, cultural, and economic development of the ACP States, an amount of 1000 million ECU shall be reserved financing of their regional projects and programmes.

Article 113

The scope of regional co-operation shall, having regard to Article 103, 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. c coastal degradation and marine pollution with a view to insuring rational and ecologically balanced development;
- (e) industrialization, including the setting-up of regional undertakings including inter-regional production and marketing enterprises.
- (f) exploitation of natural resources, notably the prod: and distribution of energy.
- (g) transport and communications, namely, roads, railways and sea transport, inland waterways, postal services and telecommunications;
- (h) development and expansion of trade;
- (i) assistance for action programmes undertaken by ACP and ACP-EEC professional and business organizations with the aim of improving production and marketing of products on external markets;
- (j) education and training, research, science and technology information and communication, the establishment and reinforcement of training and research institutions and technical bodies responsible for technology exchanges as well as co-operation among universities.
- (k) tourism, including the establishment and strengthen, tourist promotion centres:
- (l) cultural and social co-operation activities.

TITLE VIII

Cultural and social co-operation

Article 114

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. 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. 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 early on a humid of equality a better understanding and greater solidarity between ACP and EEC governments and peoples.

Article 115

1. Cultural and social co-operation shall be expressed through:

- the taking into account of the cultural and social dimension in projects and programmes:

- 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:
- promotion of the cultural identities of the ACP States' peoples, with a view to fostering their self advancement and stimulating their creativity.

2. Cultural and social co-operation schemes shall be undertaken in accordance with the arrangements and procedures laid down in Title III, Part Three of this Convention. They 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.

CHAPTER 1

Cultural and Social Dimension

Article 116

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:

- _ thorough knowledge of the human milieu concerned;
- evaluation of the human resources available for executing and maintaining projects;
- assessment of opportunities for participation by the population;
- 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 cooperation personnel;
- provision of integrated programmes for the promotion of human resources.

Article 117

The following shall be taken into account in the appraisal of , Projects and programmes:

(a) under the heading of social aspects, the impact on:

- reinforcement of capacities and structures of self-development:
 - _ the status and role of women;
- contribution to the satisfaction of the basic cultural and physical needs of the population;
- employment and training;
- balance between demographic structure and other resources;
- types of social and interpersonal relationships;

- methods and forms of production and processing: (b) 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 man and his environment.

CHAPTER 2

Operations to enhance the value of human resources

Article 118

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, information and communications, participation of the population, the role of women and health

Article 119

1. In order to meet immediate and foreseeable education and training needs at the levels and in the sectors accorded priority under national and regional programmes. co-operation shall provide support for:

- (a) setting up and expanding training and educational establishments;
- (b) the ACP States' own efforts to restructure their educational establishment and systems and to update curricula methods and technology employed, in order to step up the effectiveness and cut back the cost of all types of training;
- (c) drawing up an inventory of the skills and training required to achieve each ACP State's development objectives;
- (d) educational and training operations proper. notably literacy programmes and programmes of non-traditional forms of training, for practical and vocational purposes;
- (e) the training of instructors. educational planners and specialists in educational technology;
- (f) identification of the ACP States' needs concerning relevant new technology and its acquisition;
- (g) associations twinning exchanges and transfers of information and technology between universities and institutions of higher education in the ACP States and in the Community.

2. Training operations shall take the form of integrated programmes aimed at a well-defined objective either in a given sector or as part of a more general framework.

3. 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 by way

of exception, be carried out in another developing country.

Article 120

1. Co-operation shall support the ACP States' efforts to acquire their own scientific and technical skills; it shall contribute towards the execution of research programmes established by the ACP States. integrated into other development operations.

2. 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. They shall provide support for development in priority areas and comprise the following operations as needed:

- (a) the setting-up or strengthening of basic or applied research institutions;
- (b) scientific and technological co-operation between the ACP States or between them and other developing countries;
- (c) the promotion of local technology. and the selection of imported technology and its adaptation to the specific needs of the ACP States;
- (d) improve of scientific and technical information and documentation ;
- (e) disseminaton of research findings among users;

Article 121

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

- (a) increasing the ACP States' ability to contribute actively to the international flow of information and knowledge: for this purpose it she I support, inter alia, the setting-up and strengthening of national and regional communication media;
- (b) ensuring that the people of the ACP States are better informed for the purposes of mastering their own development through projects or programmes focused on informing the population and enabling it to express itself and making wide use of communications systems at grassroots level.

Article 122

1. Co-operation shall support the ACP States' efforts to ensure that grassroots communities are closely and continuously involved in development operations. 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 organization, 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. including women young people. the elderly and the handicapped, in

the various stages of development;

(e) expanding job opportunities, including those offered by the works undertaken as part of development operations.

2. Existing institutions or associations shall be used as widely as possible for the preparation and execution of development operations.

Article 123

1 Co-operation shall support the ACP States' efforts aimed at enhancing the work of women, improving their living conditions expanding their role and promoting their status in the production and development process.

2 Particular attention shall be given to access by women to all aspects of training to more advanced technology to credit and to cooperative organizations, and to appropriate technology aimed at alleviating the arduous nature of their tasks.

Article 124

Operations to improve the ACP peoples' state of health shall be aimed as a matter of priority, at nutrition, hygiene, health education, safety of workers, primary health care services and preventive medicine, control of the major endemic, and enhancing the value of traditional medicine and pharmacy. Such operations shall take account special economic circumstances and the needs of the poorest sections population.

CHAPTER 3

Promotion of cultural identities

Article 125

Co-operation shall contribute to operations for the ACP States' policies and having as their purpose promotion of their peoples cultural identities, their cultural productions, the preservation and enrichment of their cultural heritage and the dissemination of the ACP States' cultural property and services.

Article 126

1. Co-operation schemes aimed at developing ACP States cultural productions shall be designed as:

(a) components of an integrated programme, notably form of the production and distribution of teaching visual material for information and extension purposes, or

(b) specific projects inter alia for:

- the production or co-production of radio and programmes;

- the production and distribution of records and films, books, periodicals and the like.

2. 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.

Article 127

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 a recording libraries for the collection of oral tradition and the enhancement of such traditions:
- (b) promote cultural exchanges between ACP States in highly representative areas of their respective identities:
- (c) conserve historical and cultural monuments and traditional architecture.

Article 128

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

PART THREE

The instruments of ACP-EEC co-operation

TITLE

Trade co-operation

CHAPTER 1

General arrangements

Article 129

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 f this objective, particular regard shall be had to securing effective additional advantages for the 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 130

1 Products originating in the ACP States shall be imported into the Community free of customs duties and charges having equivalent effect.

(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 policy,

shall be imported into the Community, notwithstanding the general arrangement 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 benefitting 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 decision on these reasoned requests within not more the months of the date of their submission.

Within the context of the provisions of (a) (ii), the Community shall take its decisions in particular with reference to cessions granted to developing third countries. It shall account of the possibilities offered by the off-season mar

(d) The arrangements referred to in (a) shall enter into for the same time as this Convention and shall remain applicable for its duration.

However, if during the application of this Convention Community:

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

- modifies the common organization of the market in particular product or the specific rules introduced as a result of the implementation of the common agricultural policy, it reserve the right to modify the arrangements laid down products originating in the ACP States, following consultation 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 countries benefitting 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 interest.

Article 131

1. The Community shall not apply to imports of prod' originating in the ACP States any quantitative

restriction measures having equivalent effect.

2. However, paragraph I shall apply without prejudice.

import arrangements for the products referred to in the indent of Article 130(2)(a).

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

Article 132

1. Article 131 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds 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 archeological 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 restrictions on 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 9 with a view to reaching a satisfactory solution. .

Article 133

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 134

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 the second paragraph of Article 9 with a view to reaching a satisfactory solution.

Article 135

1. Where existing rules or regulations of the Community adopted in order to facilitate the movement of goods affect the interest of one or more ACP States or where these interests are affected by the interpretation, application or administration of such rules or regulations. consultation 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 136

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 commitments 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 States and shall grant to the Community treatment less favourable than the most-favoured-nation treatment.

(b) The most-favoured-nation treatment referred to in (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 137

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 138

1. The concept of "originating products" for the purposes of implementing this Chapter, and the methods of administrative cooperation 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 139

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 jeopardise 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 safeguard measures or other means for protectionist purposes or to hamper structural development.

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 140

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 139(I).

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 (1) and (2) shall not prevent any immediate decisions which the Community or its Member States, in accordance with Article 139(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 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 the joint declaration annexed to this Convention.

Article 141

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 142

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 143

In order to ensure the effective implementation of this Convention in the field of trade 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 129 to 142, 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 9, particularly in the following cases:

1) where Contracting Parties intend to take any trade measures affecting the interest 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 130(2)(a) other than those subject special treatment; should benefit from such treatment, consultations may take within the Council of Ministers;

3) where a Contracting Party considers that obstacles to movement of goods arise as a result of the existing rules of another application contracting Party or the interpretation. application administration

thereof;

4) where the Community or the Member States take safeguard measures in accordance with Article 139, consultation these measures may take place within the Council of Ministers, where the Contracting Parties concerned so request, not with a view to ensuring compliance with Article 139(3);

CHAPTER 2

Special undertakings on rum and bananas

Article 144

Until the entry into force of a common organization of the market in spirits and notwithstanding Article 130(1), entry the Community of products of subheading 22 09 CI - rum, arrack, tafia--originating in the ACP States shall be governed by Protocol 5.

Article 145

In order to permit the improvement of the conditions which bananas originating in the ACP States are producer marketed, the Contracting Parties hereby agree to the objectives set out in Protocol 4.

Article 146

This Chapter and Protocols 4 and 5 shall not apply to relations between the ACP States and the French overseas de meets.

TITLE II

Co-operation in the field of commodities

CHAPTER 1

Stabilization of export earnings from agricultural commodities

Article 147

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. in accordance with 160, derived from the ACP States' exports to the Community or other destinations, as defined in Article 150, of product which their economies are dependent and which are all by fluctuations in price or quantity or both these factors.

2. In order to attain these objectives transfers shall b voted to maintaining financial flows in the sector in question or, for the purpose of promoting diversification, directed towards other appropriate sectors and used for economic social development.

Article 148

1. The following products shall be covered:

1. Groundnuts, shelled or not 12.01-31 to 12.01-35

2. Groundnut oil 15-74 07-74 and 15 -07-87
3. Cocoa beans 18-01-00
4. Cocoa paste 18-03-10
5. Cocoa butter 18 04-00
6. Raw or roasted coffee 09.01-11 to 09.01-17
7. Extracts, essences or concentrates of coffee 21.02- 11 to 21.02- 15
8. Cotton, not carded or combed 55.01-10 to 55 01-90
9. Cotton linters 55.02-10 to 55.02-90
10. Coconuts 08-01-71 to 08-01-75
11. Copra 12.01-42
12. Coconut oil 15.07-29, 15.07-77 and 15 07-92
13. Palm oil 15 07-19, 15.07-61 and 15.07-63
14. Palm nut and kernel oil 15.07-31, 15.07-78 and 15.07-93
15. Palm nuts and kernels 12.01-44
16. Raw hides and skins 41.01-11 to 41.01-95
17. Bovine cattle leather 41.02-05 to 41.02-98
- 18 Sheep and lamb skin leather 41.03-10 to 41.03-99
- 19 Goat and kid skin leather 41.04-10 to 41.04-99
20. Wood in the rough 44.03-20 to 44.03-99
- 21 Wood roughly squared or half-squared, 44.04-20 to 44.04-98
but not further manufactured.
- 22 Wood sawn lengthwise, but not further prepared 44.05-10 to 44.05-79
23. Fresh bananas 08.0-31
24. Tea 09.02-10 to 09.02-90
25. Raw sisal 57.04-10
26. Vanilla 09.05-00
27. Cloves - whole fruit, cloves and stems 09.07-00

28. Sheep's or lambs' wool, not carded or combed 53 01-10 to 53 01-40
29. Fine animal hair of Angora goats mohair 53.02-95
30. Gum Arabic 13.02-91
31. Pyrethrum - flowers, leaves, stems, 12.07-10 and 13.03-15
peel and roots; saps and extracts from pyrethrum
32. Essential oils, not terpene less of cloves, of niaouli and of ylang-ylang 33.01-23
33. Sesame seed 12 01-68
34. Cashew nuts and kernels 08.01-77
35. Pepper 09.04- 11 and 09 04-70
- 36 Shrimps and prawns 03.03-43
37. Squid 03.03-68
- 38 Cotton seeds 12.01-66
- 39 Oil-cake 23.04-01 to 23.04-99
40. Rubber 40.01-20 to 40.01-60
41. Peas 07.01-41 to 07.01-43, 07.05-21 and 07 05-61
- 42 Beans 07 01-45 to 07.01-47, 07 05-25, 07 05-65 and ex 07.05-99
43. Lentils 07.05-30 and 07.05-70
44. Nutmeg 09.08-13; 09.08-16 and 09.08-60 and mace 09.08-70
45. Shea nuts 12.01-70
46. Shea nut oil ex 15.07-82 and ex 15.07-98
- 47 Mangoes ex 08.01-99
48. Dried bananas 08 01-3511

2. Upon presentation of each transfer request. the ACP State shall choose between the following systems:

- (a) each product listed in paragraph I shall constitute a product within the meaning of this Chapter;
- (b) product groups I and 2, 3 to 5, 6 and 7, 8 and 9, 10 to 12, 13 to 15, 16 to 19, 20 to 22 23 and 48. 45 and 46 shall each constitute a product within the meaning of this Chapter.

Article 149

If, twelve months after the entry into force of this Convention, one or more products not contained in the list in Article 148, 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 later 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 and the level of development of the ACP State concerned and the conditions which characterize products originating in the Community.

Article 150

1. The system shall apply to earnings from exports

(a) by each ACP State, to the Community, of each product listed in Article 148;

(b) by the ACP States already benefitting from the derogation referred to in paragraph 2 to the other ACP States, of each product listed in Article 148 for which such derogation has been granted;

(c) by the ACP States already benefitting from the derogation referred to in paragraph 3, to all destinations, of each product listed in Article 148.

2. If so requested by one or more ACP States in respect of one or more of the products listed in Article 148, the Council of Ministers may decide on the basis of a report established by the Commission, in liaison with the requesting ACP State or States, and not later 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. At the request of an ACP State which does not send the bulk of its exports to the Community, the Council of Ministers, on the basis of a report drawn up by the Commission in conjunction with the requesting ACP State may decide, not later than six months after presentation of the request that the system shall apply to its exports of the products in question whatever their destination.

Article 151

Each ACP State concerned shall certify that the products to which the system applies have originated in its territory within the meaning of Article 2 of Protocol 1.

Article 152

For the purposes specified in Article 147 the Community shall allocate to the system, for the duration of this Convention, an amount of 925 million ECU to cover all its commitments under the system. This amount shall be managed by the Commission.

Article 153

1. The overall referred to in Article 152, shall be divided into a number of equal annual instalments corresponding to the number of years of application.

2. 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 half each second annual instalment, minus any advances and

transfers paid during that second period, shall be credited to the system's resources.

3. Whatever balance remains at the end of each of the first four years of application of this Convention shall be carried forward automatically to the following year.

Article 154

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

- (1) the annual instalment, minus any amounts used under Article 155(1);
- (2) the sums carried forward under Article 153(3);
- (3) the amounts replenished under Articles 172 to 174;
- (4) any amounts made available under Article 155(1);
- (5) the amount of interest earned pursuant to Article 153(2).

Article 155

1. If the total amount of the transfer basis in a year of application, as calculated in accordance with Article 158(2), and where appropriate reduced in accordance with Article 164, 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 measure referred to in paragraph 1, the amount of resources available is still less than the total amount of the transfer bases for the same year of application, the amount of each transfer basis which exceeds 2 million ECU in the case of ACP States listed under Articles 257 and 960, and 1 million ECU in the case of, ACP States listed under Article 263, shall be reduced in accordance with paragraph 3.

3. (a) Each transfer basis shall be reduced by an amount calculated by applying to the reference level in question a percentage equal to that referred to in Article 162 applicable to the ACP State concerned.

(b) If, after the reduction referred to in (a), the total amount of the transfer basis so calculated is less than the amount of resources available, the remainder shall be shared among all the transfers in proportion to the percentage by which each transfer was reduced.

(c) In no case shall the reduction of each transfer basis referred to in (a) exceed:

- 30% for the ACP States listed in Articles 257 and 260,
- 40% for the other ACP States.

4. If, after the reduction referred to in paragraph 3, 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 examine the steps to be taken to remedy that situation within the terms of this Convention.

Article 156

Before the expiry of the period referred to in Article 152, the Council of Ministers shall decide on the use

of any balance remaining from the overall amount referred to in Article including the interest referred to in Article 153(2), as well as on the conditions for future use of any amounts still to be paid by of replenishment by the ACP States under Articles 172 to 174, following expiry of the period referred to in Article 152.

Article 157

Every request for a transfer shall, in addition to the necessary statistical data, include substantial information on the, of earnings and also the programmes and operations to the ACP State has allocated or undertakes to allocation Funds. in accordance with the objectives set out in Article 147.

Such request shall be addressed to the Commission. which shall examine it in conjunction with the ACP State concerned with a view to calculating the amount of the transfer basis and any reduction which may be made pursuant to Article 164.

Article 158

1. In order to implement the system, a reference level and a transfer basis shall be calculated for each ACP State exports of each product to the Community and other destinations as defined in Article 150.

2. The difference between the reference level and actual earnings, plus 2% for statistical errors and omissions, shall constitute the basis of the transfer.

3. This reference level shall correspond to the average of export earnings in the four years preceding each year of application.

4. Where, however, an ACP State:

- begins processing a product traditionally exported in the raw state, or
- begins exporting a product which it did not traditional 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.

Article 159

1. In the case of the ACP States accorded the derogation referred to in Article 150(2), the transfer basis shall be calculated by adding to the earnings from exports of the products concerned to the Community the earnings from ports of those products to other ACP States.

2. In the case of the ACP States accorded the derogation referred to in Article 150(3), the transfer basis shall be calculated according to the earnings from exports of the prod products concerned to all destinations.

3 In the case of the ACP States not accorded the derogation referred to in Article 150(3), the transfer bases may in no case exceed those calculated pursuant to paragraph 2 of this Article.

Article 160

1. The export earnings for each year of the reference period and for the year of application shall be determined on the basis of the equivalent in the currency of the ACP state concerned of the earnings

expressed in foreign exchange.

2. The reference level shall be calculated after the export earnings for each year of the reference period have been converted into ECUs at the average annual exchange rate for the ECU against the currency of the ACP State concerned over the years in question.

3. For the purpose of the calculation referred to in Article 158(2), the earnings for the year of application shall be converted into ECUs at the average annual exchange rate for the ECU against the currency of the ACP State concerned for the year of application.

4. If there is a fluctuation of more than 10% in the annual average exchange rate of the year of application for the currency of the ACP State concerned against the ECU in relation to the average of the average annual exchange rates for each year of the reference period, the earnings for the year of application shall be converted into ECUs, by way of derogation from paragraph 3 and without prejudice to paragraph 2, at a rate set at a level which restricts the fluctuation to 10% in relation to the said average.

Article 161

1. The system shall apply to the earnings from an ACP State's exports of the products listed in Article 148 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 6% of its total earnings from exports of goods. The percentage shall be 4,5% in the case of sisal.

2. For the least-developed, landlocked and island ACP States, the percentage referred to in paragraph 1 shall be 1,5%.

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 first three reference years instead of on the basis of total export earnings during the year preceding the year of application.

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

Article 162

1. An ACP State shall be entitled to request a transfer if, on the basis of the results of one calendar Year, its actual earnings, as defined in Article 165 from its exports of each product to the Community and, in the cases referred to in Article 150(1)(b), to other ACP States or, in the cases referred to in Article 150(1)(c), to all destinations, are at least 6% below the reference level.

2. The percentage given in paragraph 1 shall be 1.5% for the least-developed landlocked and island ACP States

Article 163

Request for transfers shall be inadmissible in the following cases:

- (a) if the request is presented after 31 March of the year following the year of application;
- (b) if it emerges from the examination of the request, to be undertaken by the Commission in

conjunction with the ACP State concerned, that the Call in earnings from exports to the Community is the result of a trade policy of the ACP State concerned adversely affecting exports to the Community in particular.

Article 164

Should examination of the trend of the requesting ACP State's exports to all destinations and 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 the requesting ACP State to determine whether the transfer basis is to be maintained or reduced, and, if so, to what extent.

Article 165

1. The system shall be implemented in respect of the products listed in Article 148 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 used to implement the system shall be:

- (a) those obtained by cross-checking Community and ACP State statistics, account being taken of fob values, or
- (b) those obtained by multiplying the unit values for the exports of the ACP State in question, as given in that ACP State's statistics, by the quantities imported by the Community, as shown in Community statistics.

3. When submitting the transfer request for each product, the requesting ACP State shall choose one of the two systems set out above.

4. With regard to the product or products for which an ACP State is accorded the derogation referred to in Article 150(2) and 150(3), the export statistics adopted shall be those of the ACP State concerned.

Article 166

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

2. To this end, each ACP State shall notify the Commission by sending monthly statistics on the volume and value of total exports, and exports to the Community and where available on the volume of marketed production, for each product on the list in Article 148 to which the system may apply.

3. The ACP States and the Commission shall adopt by agreement any measures facilitating inter alia the exchange of necessary information, the submission of requests for transfers, the provision of information concerning the use of transfers, the implementation of the replenishment provisions and of and other aspect of the system, by means of the widest possible use of standard forms.

Article 167

1. The Commission shall adopt a transfer decision on completion of the examination carried out in

conjunction with the requesting ACP State; this examination shall bear on the statistical data and the calculation and the calculation of the transfer basis which may give rise to a Payment, and also on the information referred to in Article 157.

2. For each transfer a transfer agreement shall be concluded between the commission and the ACP State concerned.

3. The amounts transferred shall not bear interest.

Article 168

1. The ACP State concerned and the Commission shall take all possible step to ensure that the cross-checking of statistics referred to in Article 165 is completed not later than 31 May following receipt of the request. Not later than that date, the Commission shall notify the requesting ACP State of the result of the cross-checking operation or, in the event of a delay, the reason why it was not possible to complete the said operation.

2. The ACP State concerned and the Commission shall take all possible steps to ensure that the consultations referred to in Article 164 are concluded not later than two months after the notification referred to in paragraph 1. After this period has elapsed, the Commission shall notify the ACP States of the amount of the transfer resulting from appraisal of the request.

3. Without prejudice to Article 170(1) and not later than 31 July following receipt of the requests, the Commission shall take decisions concerning all transfer requests, except for those where cross-checking or consultations have not been concluded.

4. On 30 September following receipt of the requests, the Commission shall report to the Committee of Ambassadors on the progress made with the processing of all transfer requests.

Article 169

1. In the event of a disagreement between the requesting ACP State and the Commission over the results of the examination referred to in Articles 163 and 164, the requesting ACP State shall have the right to initiate, without prejudice to possible recourse to Article 278, a good offices procedure.

2. The good offices procedure shall be carried out by an expert appointed by agreement between the Commission and the requesting ACP State.

3. Within two months of this appointment, the conclusions of the procedure shall be communicated to the requesting ACP State 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 priced shall not result in a delay in the processing of any other transfer requests for the same year of application.

Article 170

1. The ACP State concerned and the Commission shall take such steps as are required to ensure that transfers are made rapidly in accordance with the procedure laid down in Article 168. To this end.

provision shall be made for the payment of advances.

2. Programmes or operations to which the recipient ACP State undertakes to allocate the transferred resources decided by that State subject to compliance with the objectives laid down in Article 147.

3. Before the transfer agreement is signed, the recipient ACP State shall communicate substantial information relating to the programmes and operations to which it has allocated undertakes to allocate the funds, in accordance with the objectives set out in Article 147. Substantial information, in the context of this Article and that of Article 157 shall be taken that relating to the diagnosis of the problems in the sectors concerned, statistics, and the allocation plan by the requesting ACP State. Should the requesting ACP State intend, as specified in Article 147(2), to allocate the funds to a sector other than that where the loss has occurred communicate to the Commission the reasons for this allocation. In either case, the Commission shall ensure communication conforms with Article 157.

Article 171

1. Within twelve months of the signing of the transfer agreement the recipient ACP State shall send the Commission report on the use which it has made of the funds transferred. The report shall contain all the information specified on the form drawn up jointly in accordance with Article 166.

2. Should the report referred to in paragraph 1 not be presented within the time-limit set or should it call for the Commission to request the recipient ACP State concerned, which shall be obliged to reply there to 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 transfer until that State has provided the required information.

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

Article 172

ACP States which have received transfers shall, with the exception of the least-developed ACP States, contribute to the replenishment of the resources made available for by the Community. The replenishment obligation shall arise if, during the seven-year period following the year in which the transfer was made, the conditions laid down in Article 173 have not been met.

Article 173

1. Where the trend of the export earnings derives from a product which sustained the drop in export earnings since the transfer so permits, the ACP States may help replenish the resources of the system.

2. For the purposes of paragraph 1, the Commission shall determine:

- at the beginning of each year over the seven-year period following the year during which the transfer was paid,
- until such time as the whole amount of the transfer has been paid back into the system,
- in accordance with Article 165,

whether, for the preceding year:

(a) the unit value of the product under consideration exported to the Community was higher than the average unit value during the four years prior to the preceding year;

(b) the quantity of the same product actually exported to the Community was at least equal to the average of the quantities exported to the Community during the four years prior to the preceding year.

(c) the earnings for the year, and the product in question amount to at least 106% of the average of earnings from exports to the Community during the four years prior to the preceding year.

3. If the three conditions set out in paragraph 2(a), (b) and (c) are fulfilled simultaneously, the ACP State shall contribute to the system an amount equal to the difference between the actual earnings derived in the E preceding year from exports to the Community and the average of earnings from exports to the Community during the four years prior to the preceding year, but in no case shall the amount of the contribution towards the replenishment of the resources of the system exceed the transfer in question.

4. In implementing paragraphs 2 and 3, account shall be taken of trends established in exports to all destinations.

Article 174

1. The amount referred to in Article 173(3) shall be contributed to the system at the rate of one fifth per year after a two-year deferment period beginning in the year during which the obligation to contribute towards replenishment was established.

2. The contribution may be made at the request of the ACP State, either

- direct to the system, or

- by deduction from its transfer established before any application of Article 155, or

- by payment in local currency. In this case, the contribution shall be used, as a matter of priority, to cover local expenditure charged to the European Development Fund (hereinafter referred to as the "Fund") within the framework of development projects to the financing of which it is contributing.

CHAPTER 2

Special undertakings on sugar

Article 175

1. In accordance with Article 25 of the ACP-EEC Convention of Lome signed on 28 February 1975 and with Protocol 3 annexed thereto, 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 7.

3. Article 139 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 the 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 Lome 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 I shall not apply to relations between the ACP States and the French overseas departments.

CHAPTER 3

Mining products: special financing facility (SYSMIN)

Article 176

With a view to contributing to the creation of a more solid basis for the development of the ACP States whose economies are dependent on the mining sectors and in particular towards helping them cope with a decline in their Capacity to export mining products to the Community and the corresponding decline in their export earnings, a system shall be established to assist these States in their efforts to re-establish the viability of the mining sector or to remedy the harmful effects on their development of serious temporary or unforeseeable disruptions affecting those mining sectors and beyond the control of the ACP States concerned.

Article 177

1. The system laid down in Article 176 shall apply notably to the following products:

- copper, including associated production of cobalt,
- phosphates,
- manganese,
- bauxite and alumina,
- tin
- iron ore (ores, concentrates and roasted iron pyrites) whether or not in agglomerate form (including pellets).

2. If, not sooner than twelve months following the entry into force of this Convention, one or more products not contained in the above list, but upon which the economies of one or more ACP States depend to a considerable extent, are affected by serious disruptions, the Council of Ministers shall decide, not later 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.

Article 178

1. For the purposes specified in Article 176 and for the duration of this Convention, a special financing facility shall be set up to which the shall allocate an overall amount of 415 million ECU to cover all its commitments under this system:

- (a) this amount shall be managed by the Commission;
- (b) this overall amount shall be divided into a number equal annual instalments corresponding to the number of yea 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;
- (c) whatever teal balance remains at the end of each year of application of this Convention, except the last, shall be carried over automatically to the following year;
- (d) if the resources available for any year of application at insufficient, the amounts due shall be reduced accordingly;
- (e) the resources available for each year of application shall be made up of the following elements:
 - the annual instalment, minus any amounts used under(b),
 - the sums care over under (c).

2. Before the expiry of the period referred to in Article 291 the Council of Ministers shall decide on the allocation of any balances remaining from the overall amount referred to in this Article.

Article 179

1 Recourse to the means of financing available under the special facility provided for in Article 178 shall be open to:

- (a) the countries eligible under Article 180(a) for a product covered by Article 177 and exported to the Community,
- (b) the countries d tot eligible under Article 180(a) but eligible under Article 180(b), by derogation on a case-by-case basis from Articles 177 and 180(a),

when a substantial fall is recorded, or can be expected over the following months, in their capacity to produce or to export, or in their export earnings derived from mining products referred Ice in Articles 177 and 180(b), of such a magnitude as to affect seriously the profitability of otherwise viable and economic Ones of production, thus preventing them from replacing at a normal rate or maintaining the production plant or export capacity, and from continuing to provide funds for major identified development projects to which the ACP State concerned has given the highest priority in the allocation of mining revenue.

2. The recourse referred to in paragraph 1 shall also be available when a substantial fall in production or export capacity is experienced. or is foreseen, owing to accidents and serious technical mishaps or grave political events, whether internal or external, or important technological and economic developments affecting the profitability of production.

3. A substantial fall in production or export capacity shall be taken to mean 10%.

Article 180

An ACP State which, during at least two of the preceding four years, as a general rule, has derived either

(a) 15 % or more of its export earnings from a product covered by Article 177, or

(b) by derogation on a case-by-case basis from Article 177 and from (a) above, 20% or more of its export earnings from all its mining products (excluding precious minerals oil and gas) may apply for financial aid from the resources allocated to the special financing facility if the conditions laid down in Article 179 are fulfilled.

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

Article 181

The application for aid shall be made to the Commission, which shall examine it in conjunction with the ACP State concerned. Where necessary, an expeditious experts' study to diagnose the production capacity concerned from the technical and financial angles may be financed from the funds provided under Article 178, notably with a

view to expediting appraisal of the application.

The fact that the aid conditions have been fulfilled established by agreement between the Community and the ACP State. Notification thereof by the Commission ACP State shall entitle the latter to Community aid from the special financing facility.

Article 182

The aid referred to in Article 180 shall be directed at the objectives set out in Article 176.

As a matter of priority such aid shall be used to finance rehabilitation, maintenance and rationalisation program to complement the efforts made by the ACP State concerned to restore the affected production and export capacity to level, with special attention being paid to integrating it satisfactorily in the country's overall development process it would appear impossible to restore such capacity to state, the ACP State concerned and the Commission shall seek projects or programmes best suited to attaining the objectives of the system.

Where Articles 179(1)(b) and 180(b) are applied sources of the special financing facility shall be used as matter of priority to support the efforts the ACP State concerned deploys to avoid interruption of the development projects referred to in Article 179 or to promote projects that would replace, even partially, the mining capacities lost as a source of export earnings.

The amount of this aid shall be determined by the commission in the light of the funds available under the special financing facility, the nature of the projects or programmes proposed by the ACP State concerned and the possibilities for co-financing.

In determining the amount, account shall be taken scale of the reduction in production or export capacity.

the losses of earnings suffered by the ACP States as identified in Article 179 and of the relative importance of the mining industry affected for the ACP State's export earnings.

Under no circumstances may a single ACP State be eligible for more than 35% of the funds available under an annual instalment. This percentage shall be 15% for a contribution on the basis of Articles 179(1)(b) and 180(b).

The procedures applicable to assistance in the above circumstances and the implementing arrangements shall be as provided for under Title 111 Part Three, of this Convention account shall be taken of the need for rapid implementation of the aid.

Article 183

1. To permit the implementation of precautionary measure to halt deterioration of production plant during the appraisal or implementation of these projects programmes, the Community may grant an advance to any ACP State which requests one. This possibility shall not recourse by the ACP State concerned to the emergency aid provided for in Article 203.

2. Since an advance is granted as a means of prefinancing projects or programmes which it precedes or to which it is preparatory, account shall be taken of the scale and nature of those projects or programmes when the amount of the advance is fixed.

3. The advance shall take the form of supplies or of the provision of services, or of cash payments if this arrangement is considered more appropriate.

4. It shall be incorporated in the amount earmarked for Community operations in the form of projects or programmes when the financing agreement relating to such operation is signed.

Article 184

Aid granted from the special financing facility shall be reimbursed on the same terms and conditions as special loans. account being taken of the provisions adopted in favour of the least-developed ACP States.

TITLE III

Financial and technical co-operation

CHAPTER 1

General Provisions

SECTION 1

Objectives and principles

Article 185

The aims and objectives of financial and technical co-operation shall be to:

(a) make, in favour of the ACP States, by adequate financial resources and appropriate technical assistance, a significant contribution to the implementation of the objectives of this Convention in order to support and promote the efforts of those States to achieve self-determined, self-reliant and selfsustained 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 to encourage and support the participation of those concerned in the design and implementation of development projects;
- (d) complement the efforts of the ACP States and remain in keeping with them;
- (e) promote the optimum development of human resources and contribute to the rational utilization of the natural resource of the ACP States;
- (f) encourage intra-ACP co-operation and regional co-operation among ACP States;
- (g) 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.
- (h) 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 aid;
- (i) help the least-developed, landlocked and island ACP States to overcome the specific obstacles which hamper their development efforts.

Article 186

Financial and technical co-operation shall:

- (a) be implemented on the basis of objectives and priorities established by the ACP States, with due regard to their respective geographical, social and cultural characteristics, specific potential and development strategies;
- (b) be given on the most liberal terms possible for the Community.
- (c) be administered under simple and rational procedures;
- (d) contribute to the fullest participation of the majority of the population in the benefits of development, as well as support the necessary structural changes;
- (e) ensure that technical assistance be provided upon request of the ACP State concerned, be of the highest quality but cost effective and include arrangements for the rapid training of local replacement personnel;
- (f) ensure that resource flows are on a more predictable and continuous basis;
- (g) ensure participation by the ACP States in the management and utilization of financial resources and greater and more efficient decentralization of decision-making powers

SECTION 2

Scope

Article 187

Within the framework of this Convention, financial and technical co-operation shall cover:

- (a) capital projects:
- (b) sectoral programmes.
- (c) rehabilitation of projects and programmes,
- (d) technical co-operation programmes:
- (e) deployment of flexible resources in support of the efforts of grassroots communities.

Article 188

1. Financial and technical co-operation shall also be provided upon request for sectoral development and import programmes the purpose of which is to contribute to the optimum functioning of the productive sectors of the economy and to help meet basic human needs. Such programmes may include the financing of inputs to the productive system, such as raw materials, spare parts, fertilisers, insecticides and supplies to improve health and education services, but not of current administrative costs.

Such aid shall back up the measures taken by the ACP States concerned to resolve the problems underlying the serious situation where this is of a structural nature. Its aim shall be to do away progressively with the needs it fulfils.

2. Financial and technical co-operation may cover, for new, ongoing or past projects and programmes, current administrative, maintenance and operating expenses only on the conditions laid down in (a) and (b):

- (a) The financing of projects or programmes may cover expenditure incurred in, and strictly limited to, the start-up period, provided that such expenditure, identified in the financing proposal, is considered necessary for setting up, launching and operating the capital projects in question;
- (b) managing capital projects and programmes implemented earlier, in order to ensure that full use is made of such projects and programmes;
- (c) The least-developed ACP States shall be accorded priority and favourable treatment in the determination and implementation of the back-up and follow-up assistance referred to in (a) and (b).

Article 189

The funds provided may be used to cover external costs and local expenditure required for the execution of projects and programmes.

Article 190

1. The projects and programmes may, within the framework of the priorities established by the ACP States and that of regional co-operation, apply *inter alia* to:

- (a) rural development, and in particular the striving for food self-sufficiency and food security;
- (b) industrialization, artisanal activities, energy, mining, tourism and economic and social infrastructure;
- (c) structural improvement of the productive sectors of the economy;

- (d) protection of the environment;
- (e) prospecting for, and exploration and exploitation of, natural resources;
- (f) training, applied scientific research and applied technology, technological adaptation or innovation and the transfer of technology;
- (g) industrial promotion and information;
- (h) marketing and sales promotion;
- (i) promotion of small and medium-sized national enterprises;
- (j) support for local and regional development banks and financing institutions;
- (k) microprojects for grassroots development;
- (l) transport and communications;
- (m) measures for promoting, in the field of air and sea transport, the movement of goods and persons;
- (n) measures for developing fishing activities;
- (o) development and optimum utilization of human resources, special account being taken of the role of women in development;
- (p) improvement of social and cultural infrastructure and vices and of housing and water supply for the people

2. These projects and programmes may also concern operations on specific themes, such as:

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

Article 191

1. The following shall be eligible for financial and technical co-operation:

- (a) ACP States;
- (b) regional or inter-state bodies to which one or more ACP States belong and which are authorized by

the said States

(c) joint bodies set up by the Community and the ACP St and authorized by those States to attain certain specific of fives, notably in the spheres of agricultural, industrial trade co-operation.

2. The following shall also be eligible for financial and technical co-operation, subject to the agreement of the ACP ' or States concerned, in respect of projects and program approved by the latter:

(a) public, or semi-public agencies of the ACP States, and in particular their national or regional financial institutions development banks;

(b) local communities and private bodies working in the c, tries concerned for their economic, social and cultural development;

(c) enterprises carrying out their activities in accordance industrial and business management methods and formed companies or firms of an ACP State within the meaning Article 253;

(d) groups of producers that are nationals of the ACP States.

(e) award holders and trainees.

SECTION 3

Responsibilities of the ACP States and the Community

Article 192

1 Operations financed by the Community shall be implemented by the ACP States and the Community in close operation, the concept of equality between the partners recognized.

2. The ACP States shall be responsible for:

(a) defining the objectives and priorities on which the indicative programmes shall be based:

(b) choosing the projects and programmes which they decide to put forward for Community financing;

(c) preparing and presenting to the Community the dossiers of projects and programmes;

(d) preparing, negotiating and concluding contracts

(e) implementing projects and programmes financed by the Community;

(f) managing and maintaining operations carried out in the context of financial and technical co-operation.

3. The ACP States and the Community shall bear joint responsibility for:

(a) establishing within the joint institutions, the general guidelines for financial and technical co-operation;

(b) adopting the indicative programmes of Community aid;

(c) appraising projects and programmes, and examining the extent to which they fit the objectives and

priorities and comply with the provisions of this Convention;

(d) taking the necessary implementing measures to ensure equality of conditions for participation in invitations to tender and contracts;

(e) evaluating the effects and results of projects and programmes completed or under way;

(f) ensuring that the projects and programmes financed by the Community are executed in accordance with the arrangements decided upon and with the provisions of this Convention.

4. The Community shall be responsible for taking financing decisions on projects and programmes.

Article 193

1. The Council of Ministers shall examine at least once a year whether the objectives of financial and technical 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.

2. To this end, an ACP-EEC Committee shall be set up within the Council of Ministers to:

(a) collect information on existing procedures relating to the implementation of financial and technical co-operation and e any necessary clarification 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 such financial and technical co-operation;

(c) examine any problems in connection with the implementation of the timetables of commitments, execution and payments as provided for in Articles 216(2) and 220(2), with a view to facilitating the removal of any difficulties and bottlenecks discovered at different levels;

(d) ensure that the objectives and principles of financial and technical co-operation are attained;

(e) help establish general guidelines for financial and technical co-operation in accordance with the provisions of this Convention;

(f) prepare and submit to the Council of Ministers results of evaluation of projects and programmes;

(g) submit to the Council of Ministers any suggestions likely to improve or expedite the implementation of financial and technical co-operation;

(h) follow up and implement guidelines and resolutions adopted by the Council of Ministers on financial and technical co-operation;

(i) perform other tasks entrusted to it by the Council of Ministers.

3. 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 each time one of the parties so requests and at least once a year. A representative of the Bank shall be present at committee meetings.

4. 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

5. With the agreement of the Committee of Ambassadors, the ACP-EEC Committee may convene meetings of experts to study the causes of any difficulties and bottlenecks which may arise in implementing financial and technical co-operation. These experts shall suggest to the Committee possible ways of removing such difficulties and bottlenecks.

6. Any specific problem arising in the implementation of financial and technical co-operation may be submitted to the ACP-EEC Committee, which shall examine it within sixty days with a view to providing an appropriate solution.

7. To facilitate the work of the ACP-EEC Committee, ACP States and their beneficiary regional organisations together with the Commission and in collaboration with the Bank, shall submit to the Committee an annual report on the management of Community financial and technical aid.

The report shall in particular show the position as to the commitment, implementation and use of aid, broken down by type of financing, the results of work done to evaluate projects and programmes and specific examples of implementation problems.

8. The ACP-EEC Committee shall examine the annual reports on the management of Community financial and technical aid, which shall be submitted to it by the Commission and the ACP States pursuant to paragraph 7. It shall draw up, for the attention of the Council of Ministers, recommendations and resolutions relating to measures directed towards attainment of the objectives of financial and technical co-operation, within the framework of the powers conferred upon it by that Council. It shall draw up 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 financial and technical co-operation.

9. On the basis of the information referred to in paragraphs 7 and 8, the Council of Ministers shall establish the general guidelines for financial and technical 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.

10. Where the financing of projects within the Banks sphere of competence is concerned, the arrangements and procedures for implementing financial and technical co-operation as set out in Chapters 3 and 4, may, in consultation with the ACP States concerned, be adapted to take account of the nature of the projects financed by the Bank and to permit it, within the framework of the procedures laid down by its Statute, to act in accordance with the objectives of this Convention.

CHAPTER 2

Financial co-operation

SECTION 1

Financial resources

Article 194

For the duration of this Convention, the overall amount of the Community's financial assistance shall be 8 500 million ECU.

This amount shall comprise;

(1) 7 400 million ECU from the Fund, allocated as follows:

(a) for the purposes set out in Articles 185, 186 and 187, 6 060 million ECU consisting of:

- 4 860 million ECU in the form of grants;
- 600 million ECU in the form of special loans;
- 600 million ECU in the form of risk capital;

(b) for the purposes set out in Articles 147 to 174, 925 million ECU in the form of transfers for the stabilization of export earnings;

(c) for the purposes set out in Articles 176 to 184, a special financing facility of 415 million ECU under the Sysmin scheme;

(2) for the purposes set out in Articles 185, 186 and 187, up to 1 000 million ECU from the Bank in the form of loans made from its own resources in accordance with the terms and conditions provided for in its Statute. These loans shall be combined, under the conditions laid down in Article 196, with an interest rate subsidy charged to the Fund.

Article 195

1. Should an ACP State fail to ratify, or denounce, this Convention, the Contracting Parties shall adjust the amounts of the resources provided for therein.

2. Such adjustments shall also apply upon

- (a) the accession to this 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 loans

Article 196

1. In order to permit effective support for ACP States' development programmes, the Contracting Parties agree that all loans extended to ACP States shall be provided on concessional terms.

2. Special loans from the Fund shall be granted under the following terms and conditions: (a) a maturity period of 40 years, including (b) a mandatory grace period of 10 years;

(c) such loans shall bear interest at the rate of 1% per annum, save as regards the least-developed ACP States, for which rate shall be reduced to 0,50%.

3. Loans from the Bank shall be granted under the foil terms:

(a) the rate of interest shall be the rate charged by the Bank at the time of signing of each loan contract;

(b) except where loans are intended for investment in the oil sector, this rate shall be reduced by means of a 3 % interest rate subsidy, which shall be automatically adjusted so that the interest rate actually borne by the borrower will be neither than 5% nor more than 8%;

(c) the aggregate amount of interest rate subsidies calculated in terms of its value at the time of the signing of the loan contract shall be charged against the amount of grants provided by the Fund and shall be paid direct to the Bank;

(d) the duration of loans made by the Bank from its 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 periods the funds needed for the Project.

SECTION 3

Methods of financing

Article 197

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

2. For resources of the Fund administered by the Commission, the methods of financing for each project or program shall be decided jointly by the Community and the ACP States or States concerned by reference to the level of development and the geographical, economic and financial situation of these States. Account shall also be taken of the economic, social and cultural impact of the methods of financing.

3. For resources of the Fund administered by the Bank the methods of financing shall be fixed in close consultation with the ACP State concerned or the beneficiary on the basis of economic and financial characteristics of the project or programme in question and the stage of development and economic and financial situation of the ACP State or States concerned.

4. For the Bank's own resources, the methods of financing shall be decided by reference to the nature of the project, the prospects for its economic and financial return and the stage of development and economic and financial situation of the ACP State or States concerned. Account shall be taken in addition of factors guaranteeing the servicing of repayable aid. Examination by the Bank of the admissibility of projects and; granting of loans from its own resources shall be carried out in consultation with the ACP State or States concerned in accordance with the detailed rules, conditions and procedures laid down in its Statute and in this Convention.

5. The Bank's task in the ACP States shall be to contribute through its own resources to the economic and industrial development of the ACP States on a national and regional scale. To this end, the financing of productive projects and programmes in industry, agro-industry, tourism and mining, and in energy production, transport and telecommunications linked to these sectors shall be undertaken in the first place by the Bank with loans from its own resources or risk capital. These sectoral priorities shall not exclude the possibility of the Bank's financing, from its own resources, productive projects and programmes in other sectors which satisfy its criteria for making contributions, in particular in the area of commercial agriculture.

6. Where a request for the financing of a project or programme is submitted to the Commission or to the Bank, and it is found that such project or programme could not be financed by one of the forms of aid

administered by the institution, the latter shall, having informed the potential recipient, transmit the request without delay to the other institution.

7. Grants or loans may be accorded to an ACP State, or direct to the recipient, or via a development bank, or may be channelled by the ACP State to a final recipient.

8. In the last-mentioned case, the terms on which the money may be made available by the ACP State to the final recipient shall be laid down in the financing agreement or loan contract.

9. In the course of its financial operations, the Bank shall establish close links with the national development banks of the ACP States. In the interests of co-operation it shall endeavour to make all appropriate contacts with banking and financial institutions in the ACP countries concerned by its operations.

10. Any profit accruing to the ACP State because it receives either a grant or a special loan for which the interest rate or the repayment period is more favourable than that of the final loan shall be used by the ACP State for development purposes on the conditions laid down in the financing agreement or loan contract.

11. 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 particularly 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 special loans, or risk capital or loans from the Bank, having regard to the criteria laid down in paragraph 4.

Article 198

At the request of the ACP States, the Community shall lend technical assistance in studying and finding practical solutions to their indebtedness, debt-servicing and balance-of-payments problems.

SECTION 4

Risk capital

Article 199

1. With a view to aiding the implementation of operations of general interest to the economy of the ACP States, the Community may contribute to the formation of risk capital which may be used inter alia for:

- (a) increasing directly or indirectly the own resources, or resources treated as such, of public, semi-public or private enterprises and granting quasi-capital assistance to such enterprises;
- (b) financing specific studies for the preparation for the launching of projects and providing assistance to enterprises during the start-up period or for rehabilitation purposes;
- (c) financing research and investment in preparation for the launching of projects and programmes in the mining and energy sectors.

2. (a) To attain these objectives, risk capital may be used to acquire temporary minority holdings on behalf of the Community in the capital of the enterprises concerned or in that of institutions specialized

in the financing of development in the ACP States. Such holdings may be acquired in conjunction with a loan from the Bank or with another form of risk-capital assistance. Once the conditions are met, the holdings shall be transferred, preferably to nationals or institutions of the ACP States.

(b) Financing decisions relating to risk capital shall be taken by the Community within the framework of Article 220(5) to (8)

3. Quasi-capital assistance may take the form of:

(a) subordinated loans, which shall be redeemed and in respect of which interest, if any, shall be paid only after other bank claims have been settled;

(b) conditional loans, the repayment or duration of which shall be governed by terms laid down when the loan is made. Conditional loans may be made directly, with the agreement of the ACP State concerned, to a given firm. They may also be granted to an ACP State or to financial institutions in the ACP States to enable them to acquire a holding in the capital of enterprises operating in the sectors referred to in Article 197(5), where such an operation comes under the financing of preparatory or new productive capital projects and may be supplemented by other Community financing, possibly together with other sources of financing, as a co-financing operation. Such loans may also be granted, case by case, at the request of the ACP State, subject to the same conditions and by derogation from Article 191, to an enterprise of a Community Member State to enable it to undertake a productive capital project in the territory of that ACP State;

(c) loans made to financial institutions in the ACP States, where the characteristics of their activities and management so permit. Such loans may be used for onlending to other firms and acquiring holdings in other enterprises.

4. The terms of quasi-capital assistance referred to in paragraph 3 shall be determined by reference to the characteristics of each project financed. However, the terms on which quasi capital assistance is granted shall generally be more favourable than those for subsidized loans from the Bank. The interest rate shall not be greater than that on subsidized loans.

5. Where the assistance referred to in this Article is granted to consultancy firms or is used to finance research or investment in preparation for the launching of a project, it may be incorporated in any capital assistance to which the promoting company may be entitled if the project is carried out.

6 The projects and programmes identified and promoted by the joint bodies set up by the Community and the ACP States and authorized by those States to attain certain specific objectives within the framework of Article 191(1)(c) may also be entitled to the quasi-capital assistance referred to in paragraph of this Article

SECTION 5

Co-financing

Article 200

1. The financial resources of the Community may be applied, at the request of the ACP States, to co-financing, particularly where they will facilitate an increase in the financial flows to the ACP States and support their efforts to harmonize international co-operation for their development. 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 by any one source of financing;
- (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 subprojects 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.

2. Co-financing may be in the form of joint or parallel financing.

Preference shall be given to the more suitable solution from the point of view of cost-effectiveness.

3. Whenever possible, the Commission and the Bank shall try to involve private sector resources in projects financed by them, and in particular:

- (a) to seek out and negotiate with commercial partners for joint financial operations;
- (b) to apply the various techniques developed in recent years to attract private-sector resources into co-financing operations.

4. With the agreement of the parties concerned, necessary measures shall be taken to co-ordinate and harmonize operations of the Community and of the other co-financing bodies, in order to avoid an increase in the number of procedures to be undertaken by the ACP States and to allow those procedures to be made more flexible, notably as regards:

- (a) the needs of other co-financing bodies and recipients;
- (b) the choice of projects to be co-financed and the arrangements for carrying them out;
- (c) the harmonization of works, supply and services contracts rules and procedures;
- (d) the payment terms;
- (e) the rules of eligibility and competition;
- (f) the margin of preference granted to ACP enterprises.

5. With the agreement of the ACP State concerned, the Community may provide the other co-financing bodies with administrative help, should they so desire, in order to facilitate the implementation of projects or programmes being co-financed.

6. At the request of the ACP State in question and with the agreement of the other parties concerned, the Commission or the Bank may act as a lead or co-ordinating agency for projects part-financed by them.

SECTION 6

Microprojects

Article 201

1. In order to make a practical response to the needs of local communities with regard to development, the Fund shall participate in the financing of Microprojects at the ACP States request.
2. Programmes for Microprojects shall cover small projects within the framework of Article 187 and other projects which meet the criteria referred to in paragraph 3 and have an economic and social impact on the life of the people and the communities in the ACP States. These projects shall normally be located in rural areas. However, the Community may, assist in the financing of Microprojects in urban areas.
3. In order to be eligible for Community financing, Microprojects must:
 - meet a priority need demonstrated and observed at local level;
 - be undertaken with the active participation of the local community.
4. Special priority shall be accorded to the preparation and implementation of Microprojects in the least-developed ACP States.

Article 202

1. Each project for which Community assistance is requested must stem from an initiative taken by the local community, which will benefit therefrom. Contributions to Microprojects shall normally come from:
 - the community concerned, to be provided in kind, in form of supply of services or in cash and matched to its capacity to contribute;
 - the Fund.

The ACP State concerned may also contribute, either in form of a financial contribution, or through the use of public equipment or the supply of services.

2. The share contributed by the Fund shall not normally exceed two-thirds of the total cost of each project and may not exceed 250 000 ECU. The contributions shall be mobilised at the same time. For each project, the local community shall undertake to maintain and run the project, where appropriate in conjunction with the national authorities.
3. The amounts representing the Fund's contribution shall be charged against the grant allocation under the indicative programme of Community aid referred to in Article 215.

SECTION 7

Emergency aid and aid for refugees and returnees

Article 203

1. Emergency aid 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.

2. (a) Emergency aid shall cover assistance urgently necessary immediately an exceptional situation arises. This could be in the form of works, supplies, the provision of services and payments in cash. It may be used to procure food, seeds, shelter materials, medical supplies clothing and transport. As regards other specific requests from the ACP States, the condition of implementation of such aid shall be sufficiently flexible to enable the range of products and services to be widened.

(b) Emergency aid may also cover the financing of immediate measures to make damaged structures and equipment operational again and to ensure minimum viability.

(c) Emergency aid may also be integrated into national indicative programmes in order to prepare, by financing the immediate measures mentioned under (b), the execution of reconstruction or rehabilitation operations in the framework of the programmes.

3. Emergency aid shall:

(a) help finance the most suitable means of remedying the serious difficulties encountered

(b) be non-reimbursable;

(c) be granted and made available quickly and easily;

(d) make a real contribution to solving the problems concerned.

4. For all operations relating to emergency aid, the ACP States may, in agreement with the Commission delegate, and in accordance with Article 234, authorize the placing of contracts after restricted invitations to tender, the conclusion by contracts by direct agreement and the performance of contracts by direct labour.

They may obtain their supplies from the markets of the Community, ACP States or third countries under the conditions laid down in Article 232.

5. Where appropriate, such aid may, with the agreement of the ACP State concerned, be implemented via specialized agencies or directly by the Commission.

6. The detailed rules for the allocation of such aid shall be the subject of an emergency procedure. The conditions governing payment and implementation of such aid shall be determined, case by case; advances may be granted by the National Authorizing Officer where implementation is based on an estimate.

7. The Community shall take adequate steps to facilitate the speedy action which is required to meet the urgent needs for which emergency aid is intended including such measures as the retroactive financing of immediate relief measures undertaken by the ACP States themselves.

8. (a) Funds provided under emergency aid must be committed within six months of the implementing arrangements being established, unless otherwise stipulated by those arrangements and provided that it is not agreed by common accord during the implementation period to extend that time-limit owing to extraordinary circumstances;

(b) where the funds made available have not all been committed within the time-limit set, they may be reduced to an amount corresponding to the funds committed within that time-limit;

(c) the unexpended portion shall then be paid back into the special appropriation.

Article 204

1. Aid may be granted to ACP States taking in refugees or returnees to meet acute needs not covered by emergency aid. to implement in the longer term projects and action programmes aimed at self-sufficiency and the integration or reintegration of such people.
2. It shall be administered and implemented under procedures permitting rapid action. Conditions for payment and implementation shall be laid down case by case.
3. Such aid may be implemented, if the ACP State concerned so agrees, through the intermediary of and in conjunction with specialized organizations, in particular the United Nations, or by the Commission direct.

Article 205

1. For the financing of the aid referred to in Article 203 and Article 204, a special appropriation of 290 million ECU shall be constituted within the Fund. of which 210 million ECU shall be for the aid referred to in Article 203 and 80 million ECU for the aid referred to in Article 204.
2. Should the appropriations provided for under one of the aforementioned Articles be used up before this Convention expires, transfers may be made from the appropriations provided for in the other Article.
3. On the expiry of this Convention, appropriations not committed for emergency aid or aid for refugees and returnees shall be paid back to the assets of the Fund for the purpose of financing other operations coming within the scope of financial and technical co-operation, save as otherwise decided by the Council of Ministers.
4. Should the special appropriations be used up before this Convention 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 203 and 204.

SECTION 8

Small and medium-sized enterprises

Article 206

1. The Community shall finance schemes in favour of small and medium-sized enterprises in the ACP States. The methods of financing shall be determined by reference to the nature of the programme presented by those States.
2. Technical co-operation from the Community shall help to reinforce the activities of bodies in the ACP States working for the development of small and medium-sized enterprises and to provide the necessary vocational training for such enterprises.
3. The Community's financing may take the form of direct aid or overall allocations in the form of loans or possibly grants. The overall aid may be accorded:
 - by the Bank, from the resources administered by it. to banks or financial institutions for onlending to small and medium-sized industrial, agribusiness or tourist enterprises.
 - by the Commission, from the resources administered by it to public bodies, local authorities or co-

operatives with a view to developing the artisanal, commercial and agricultural sectors, and to creating or strengthening guarantee funds for credit to small and medium-sized enterprises.

4. Where the financing is undertaken via an onlending body, it shall be that body's responsibility to present individual projects within the programme already approved and to administer the funds placed at its disposal. The methods, terms and conditions for the financing accorded to the final recipient shall be determined by agreement between the ACP State concerned, the relevant Community authority and the onlending body.

5. The projects shall be appraised by the financing body, This body shall decide, within the limits of its own financial responsibility, on final loans to be accorded and on terms established by reference to those obtaining for this type of operation in the ACP State in question.

6. The financing terms accorded by the Community to the financing body shall take into consideration the latter's need to cover its administrative costs, exchange and financial risks and the cost of technical assistance given to the enterprises or final borrower.

CHAPTER 3

Technical co-operation

Article 207

1. The purpose of technical co-operation shall be to provide enhanced support far the development of human resources in the ACP States.

2. Where such co-operation involves the provision of external supplementary human resources, then as a basic principle: |

(a) such support through the provision of technical assistance personnel (consultancy firms, consulting engineers or experts, training or research institutions) shall be made available only at the request of the ACP State or States concerned.

(b) however, arrangements shall be made to train local personnel so as to phase out technical assistance and to staff projects entirely with ACP nationals on a permanent basis;

(c) 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 firms and expert ., In furtherance of this. effective training of local personnel shall be part of the assignment of technical assistance personnel;

(d) the experts provided under this co-operation shall be qualified for the specific tasks as defined in the ACP request.

3. The service contracts under which technical assistance personnel is to be recruited shall include those covering the recruitment of consultants and other technical specialists; they shall be negotiated, drawn up and concluded by the ACP State concerned subject to the agreement of the Commission delegate.

4. 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 specialists.

Article 208

1. Technical co-operation may be linked either with operations or of a general nature.
2. Technical co-operation linked with operations shall comprise inter alia:
 - (a) development studies;
 - (b) technical, economic, financial and commercial studies research and surveys required to prepare projects or programmes;
 - (c) help with the preparation of dossiers.
 - (d) help with the execution and supervision of works;
 - (e) temporarily meeting the cost of technicians and providing the resources needed for them to accomplish their a meets;
 - (f) technical co-operation measures which may be required temporarily to permit the establishment, launching, operation and maintenance of a specific project.
 - (g) aid for the evaluation of operations;
 - (h) integrated training, information and research programmes.
3. General technical co-operation shall comprise inter (a) studies of the prospects and resources for economic development and diversification in the ACP States, and of problems of interest to groups of ACP States or to the ACP States as a whole;
 - (b) sectoral or product studies;
 - (c) the provision of experts, advisers, technicians and instructors for specific assignments and for limited periods;
 - (d) the supply of instructional, experimentation, research demonstration equipment;
 - (e) general information and documentation to promote the development of the ACP States and the achievement aims of co-operation;
 - (f) exchanges of executive and specialized staff, student search workers, motivators and heads of social or cultural groups or associations;
 - (g) the granting of study or training awards, particularly sons already in employment and requiring further training;
 - (h) the organization of seminars or sessions for training, information and further training;
 - (i) the setting-up or strengthening of information and documentation instruments, particularly for exchanges of 1. how, methods and experience between ACP States and between them and the Community;
 - (j) co-operation between or twinning of ACP institution Community and ACP States' institutions, particularly universities and other ACP and EEC training and research establishments;
 - (k) support for particularly representative cultural events.

Article 209

1. Technical co-operation shall be provided under service contracts concluded with individual experts, or consultancy firms, training and research institutions. or exceptionally by direct labour.

The choice of whether to use the services of consultancy firms or of experts recruited individually shall take account the nature of the problems and the scale and complexity of the technical means and management resources required. a as the comparative cost of each of the two solutions.

2. The criteria to be observed in the choice of technic operation contractors and their staff shall refer to:

- (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

3. Given equal competence, preference shall be given to ACP States' experts, institutions or consultancy firms.

4. 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 sent, must conform to the principles for technical co-operation policy laid down in Article 207. The procedures to be applied in this context must ensure objectivity in terms of the choice and quality of the services provided. The following additional principles shall also apply:

- (a) recruitment shall be carried out by the national institutions that will use the technical assistance, with the help of the Commission and its delegate;
- (b) due account shall be taken of the availability of suitable candidates, according to the criteria established in paragraph 2 residing in the ACP State itself or in the region;
- (c) efforts shall be made to facilitate direct contact between a candidate and the future user of the technical assistance.

Article 210

1. Service contracts shall be awarded on the basis of restricted invitations to tender.

2. Certain contracts, however, may be awarded by direct agreement, notably in the following cases:

- small-scale or short-term operations,
- operations assigned to individual experts;
- operations continuing others already in hand;

- following an unsuccessful invitation to tender.

(a) Where an ACP State has, within its administrative and technical staff, nationals making up a substantial part of the work force necessary for the performance by direct labour of a technical co-operation project, the Community shall contribute exceptionally to the costs of the department involved by providing equipment that it lacks or supply the required additional staff in the form of experts from another state.

(b) 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 and shall exclude all operating expenditure of a permanent nature.

4. The manner in which the contract is to be awarded or the services undertaken shall be decided by agreement between the Commission and the ACP State concerned on the basis of the ACP State's needs and available resources.

Article 211

1. (a) For each technical co-operation scheme for which an invitation to tender has been issued, a shortlist of candidates from the Member States or the ACP States shall be drawn up, within two months of the date of the request, by agreement between the Commission and the ACP State concerned, where appropriate following prequalification; candidates shall be chosen by reference to their legal and financial situation qualifications, experience, independence, availability and the criteria and principles set out in Article 209.

(b) Depending on requirements, the invitation to tender may cover:

- the design of the co-operation Scheme and the services or staff resources to be deployed, the financial information being submitted at the same time but separately and the prices to be paid being negotiated at a later stage;

- prices, where in special, well-founded cases, the co-operation scheme is of a less complex nature.

(c) The invitation to tender dossier, drawn up by the ACP State in agreement with the Commission, shall contain details of the way in which tenders are to be presented and the criteria for selection of the successful tenderer, who must be chosen within thirty days of the date on which tenders are examined.

(d) Without prejudice to the respective powers of the National Authorizing Officer and the delegate referred to in Article 227 and 228, the relevant authorities of the ACP States shall award the contract subject to the agreement of the Commission. The tender selected for each operation must be the most advantageous one, account being taken notably of its technical qualities, the organization of and methods proposed to;- the services rendered the competence, experience and aptitude of the staff employed for the operation and, in the case referred to in the second indent of subparagraph (b), the cost of the services.

2. Where the procedure by direct agreement is applied, the successful candidate shall be chosen by the ACP State on the basis of a Commission proposal. A candidate may also be proposed by the ACP State.

The ACP State shall be notified of the Commission's proposal within one month of making its request. The ACP State shall take its decision during the month following that notification.

3. In order to speed up the procedures, service contracts, including those covering the recruitment of consultants and other technical assistance specialists, may be negotiated, drawn up and concluded either

by the National Authorizing Officer. On a proposal from the Commission or with its agreement, or by the Commission on behalf of the ACP State concerned and with its agreement, notably where urgent, small-scale or short term operations are involved and in particular for experts' services in the preparation and execution of operations.

4. At the request of the ACP State concerned the Commission may recruit and deal with the administrative formalities for individual technical assistance through its relevant agency.

5 The firms in the ACP States which may be taken into consideration for technical co-operation operations, shall be selected by agreement between the Commission and the ACP State or States concerned.

6 In exceptional cases and in agreement with the Commission recourse may be had to consultancy firms or experts that are nationals of third countries.

Article 212

1. Service contracts shall be negotiated, drafted and concluded by the relevant authorities of the ACP States in agreement with the Commission delegate, on the basis of general conditions applicable to the award and performance of contracts which shall be adopted by decision of the Council of Ministers, at its first meeting following the entry into force of this Convention, after consultation of the ACP-EEC Committee referred to in Article 193.

2. Until the entry into force of the decision provided for in paragraph 1, the award and performance of service contracts financed by the Fund shall be governed by the national legislation of the ACP States or their established practices regarding international contracts or, if the ACP States so wish, by the general clauses currently used in the contracts financed by the Fund.

Article 213

In order to enhance the ACP States' capacity to build up their technical skills and improve the know-how of their consultants, co-operation between consultancy firms, consulting engineers, experts and institutions of the Member States and those of the ACP States shall be encouraged 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 of the Community.

Article 214

Technical co-operation shall provide support for educational and training operations in accordance with Article 119.

CHAPTER 4

Implementation procedures

SECTION 1

Programming, appraisal, implementation and evaluation

Article 215

1. The operations financed by the Community, which are complementary to the efforts of the ACP States, shall be integrated into the economic and social development plans and programmes of the said States and shall tie in with the objectives and priorities which they set at both the national and regional level.

2. At the beginning of the period covered by this Convention and before the indicative programme is drawn up, each ACP State shall obtain from the Commission at the earliest possible time a clear indication of the programmable financial allocation from which it may benefit during that period and shall be provided with any other relevant information.

3. Upon receipt of the information indicated in paragraph 2 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, containing:

- the priority development objectives at national and regional level of the ACP State concerned;
- the focal sector for sectors for which Community financial support is considered the most appropriate;
- the most appropriate measures and operations for attainment of the objectives in each of the sectors referred to in the second indent or, where such operations are not sufficiently well-defined, the broad outlines of the programmes to support the country's adopted policies in such sectors;
- specific national projects and programmes designed achieve the development objectives may also be included where they have been clearly identified, especially those which constitute a follow-up to operations already undertaken;
- any proposals for regional projects and programmes.

4. Programming on the basis of the draft indicative programme referred to in paragraph 3 shall take place and ideally be completed before the entry into force of this Convention.

5. The draft indicative programme referred to above shall be the subject of exchanges of views between the representatives of the ACP State concerned and those of the Community order to ensure the maximum effectiveness of co-operation schemes.

In order to enable the two parties to ensure that optimum use is made of the different instruments and resources provided under this Convention, the Community and the ACP States shall carry out in the light of their common experience exchanges of views, as soon as possible at a moment agreed between the Commission and the ACP States.

These exchanges of views shall be aimed at enabling the Community to gain knowledge of the development objectives and priorities of the ACP State concerned, both parties to identify, on the basis of this State's proposals, the sector or on which Community's support will be brought to be: also the resources to be deployed to attain the objectives sought, and the ACP States to ensure that the operation agreed on are inserted harmoniously and effectively in their development strategies.

6. The indicative programme shall be adopted by agreement between the Community and the ACP State concerned basis of proposals made by that State and shall be binding both the Community and that State.

7. The operations, projects and programmes referred paragraph 3, together with those subsequently identified, light of the objectives and priorities written into the indicative programme, shall then be appraised in accordance with Article 219.

8 The indicative programmes 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 of each ACP State and of any modification of its initial priorities and objectives. Each programme may be revised at the request of the ACP State in question; in any case, it shall be reviewed at least once during the period covered by this Convention

Article 216

1 The indicative programme shall establish the amounts of programmable assistance which may be placed at the disposal of each ACP State. Save for funds reserved for emergency aid, interest rate subsidies and regional co-operation programmable assistance shall comprise on the one hand grants, and on the other hand loans including special loans and where possible, risk capital.

2. Each ACP State and the Community shall agree on a time table of commitments at the time of programming, and shall take the necessary steps to ensure the implementation of that timetable.

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

4 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 timetables referred to in paragraph 2 are adhered to and determine the causes of delays recorded in their execution so that the necessary remedial measures can be proposed.

Article 217

Unless otherwise provided in this Convention, all decisions requiring the approval of the Community or its relevant departments shall be deemed approved within sixty days of the notification being communicated by the ACP States concerned.

Article 218

(a) The identification of the projects or programmes proposed under the indicative programmes and the preparation of the relevant dossiers shall be the responsibility of the ACP States or of other beneficiaries approved by them.

(b) The dossiers must contain all the information necessary for the appraisal of the projects or programmes.

(c) Where so requested, the Community may provide assistance for drawing up the dossiers.

2 Such dossiers shall be officially transmitted to the delegate for the action required under his powers by the ACP States or the other beneficiaries specified in Article 191(1) Where the beneficiaries are those specified in Article 191(2), the express agreement of the State or States concerned shall be required.

Article 219

1 In the framework of financial and technical co-operation project identification, preparation and appraisal shall:

(a) enable the effectiveness and viability of the operations requested, and the return thereon. to be

assessed;

(b) take account of cultural and social aspects, both direct and indirect, according to the criteria referred to in Article 117;

(c) adapt financial criteria to take fully into account the longer term social rate of return, including related secondary effects in ACP States;

(d) be adapted to the local conditions relating to the maintenance and operational capacities of the ACP States;

(e) take national efforts into consideration as well as other resources;

(f) take account of experience gained with operations of the same kind;

(g) be in conformity with the objectives and priorities established by the ACP States.

2. The effectiveness of projects and programmes shall be assessed by means of an analysis comparing the means to be employed with the effects expected from the technical, social, cultural, economic, financial and environmental viewpoints; possible variants shall be examined.

3. Projects and programmes shall be assessed for their viability from the viewpoint of the different economic agents involved in order to ascertain whether the operation will produce the expected effects in a period considered normal for the type of operation concerned.

4. The return on projects and programmes shall be appraised on the basis of the various effects expected, notably the physical, economic, social, cultural and financial effects, if possible on the basis of a cost-benefit analysis.

5. Project and programme appraisal shall be undertaken in close collaboration between the Community and the ACP States.

6. 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.

Article 220

1. The conclusions of the appraisal shall be summarized in a proposal.

2. The financing proposal shall contain an advance timetable for the technical and financial implementation of the project or programme, which shall be reproduced in the financing agreement and deal with the duration of the different phases of implementation.

3. The financing proposal drawn up by the relevant departments of the Community shall be forwarded officially to the ACP States concerned, which may if appropriate submit comments.

4. The Community's decision shall be taken on the basis of the financing proposal, which may be amended to take account of such comments.

5. Where the financing proposal is not adopted by the Community, the ACP State or States concerned shall be informed of the reasons for that decision.

6. If this situation arises, the representatives of the ACP State or States concerned may request either:

- that the matter be referred to the Article 193 Committee, or
- that they be given a hearing by the Community's decision making bodies.

7. Following such a hearing, a definitive decision to adopt or reject shall be taken by the relevant Community body to which the ACP State or States concerned may forward all facts which may appear necessary to supplement the information available to it before the decision is taken.

8. The Community shall take the decision on the financing proposal as soon as possible and save in exceptional circumstances, within no more than four months of the date on which the financing proposal was forwarded to the ACP State concerned.

Article 221

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

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

2. For the purpose of implementing paragraph I (a), (b), (c) and (d), the ACP States concerned shall prepare and submit to the Commission delegate a programme setting out the broad outlines of the schemes planned.

3. The financing decision concerning the operations referred to in paragraph I shall be taken by the Commission within the limits of the overall amounts referred to in the said paragraph.

4. Within the framework of the programmes thus adopted, the decision relating to each scheme under paragraph I(a), (b), (c) or (d) shall be taken by the ACP State concerned, with the agreement of the Commission delegate, in respect of those operations to be executed within the ACP State and in other cases by the Commission. Such agreement shall be deemed to have been given once a month has elapsed from notification of the decision.

5. At the end of each year, the ACP State concerned, in consultation with the Commission delegate, shall forward a report to the Commission on the implementation of the programmes, operations and schemes referred to in paragraph I (a), (b), (c) and (d).

Article 222

1. For any project or programme financed by a grant from the Fund, a financing agreement shall be drawn up between the Commission, acting on behalf of the Community, and the ACP State or States concerned.

The agreement shall specify in particular the details of the Fund's financial commitment and the

financing arrangements and terms.

2. For any project or programme financed by a special loan, a loan contract shall be drawn up between the Commission, acting on behalf of the Community, and the borrower.

3. Once the financing agreement has been signed, disbursements shall be made in accordance with the financing plan laid down, Where a detailed estimate needs to be submitted for approval, It shall be deemed approved once thirty days have elapsed since its submission.

Article 223

1. Overruns on the funds provided under the financing decision shall be borne by the recipient ACP State.

2. The ACP State shall set aside, within their indicative programme, a reserve fund to cover cost increases and contingencies.

3. Financing agreements for all projects and programmes shall make adequate provisions for appropriations to cover cost increases and contingencies.

4. Once it appears that cost overruns are likely to be incurred, the National Authorizing Officer shall so inform the Chief Authorizing Officer through the Commission delegate. The Chief Authorizing Officer shall on this occasion be informed of the measures the National Authorizing Officer intends to take in order to cover such cost overruns, whether by reducing the scale of the project or programme or by calling on national or other non-Community resources.

5. By way of exception, overruns may be financed by the Community if it is not decided by common agreement to scale down the project or programme or if it is not possible to cover them by other resources.

6. However any unexpended balance left upon close projects and programmes financed under the indicative programme which has not been reallocated to the said programme for the financing of new operations may be allocated to cover overruns. The National Authorizing Officer may in consultation with the Chief Authorizing Officer, use such unexpended balance for covering cost overruns, within the limits of a ceiling set at 15% of the financial commitment project or programme concerned.

7. In order to cut down the likelihood of overruns to minimum, the ACP States and the Community shall make effort to

- gather together all the factors required to assess the operations, notably the estimate of the actual costs;
- wherever possible, issue the invitations to tender taking the financing decision.

Article 224

1. (a) Evaluation shall be undertaken during the execution of projects and programmes. The ACP States concerned and the Community shall draw up a joint progress report, at agreed intervals, on the various aspects of the operation a. results.

(b) Such a report may serve to reorient the project or programme during execution if a joint decision is taken effect.

2. (a) The ACP States concerned and the Community organize the joint evaluation of completed projects

and programmes. Evaluation shall concern the results, by comparison with the objectives, and also the administration, functioning and maintenance of the completed projects. The two parties shall study the results of such evaluation.

(b) The relevant authorities of the Community and of the ACP States concerned shall each take the appropriate measures called for by the results of the evaluation work.

SECTION 2

Execution of financial and technical co-operation

Article 225

1. The execution of financial and technical co-operation be carried out with a minimum of administrative formalities and using simplified procedures, so that projects and programmes may be implemented rapidly and efficiently.

2. The Community and the ACP States respectively take adequate measures to ensure that the administrative bodies entrusted with the following duties and responsibilities can carry them out promptly and efficiently:

(a) preparation and approval of invitations to tender;

(b) issue of invitations to tender;

(c) receiving and examining tenders;

(d) deciding the outcome of tenders, submitting a proposal for the placing of contracts and giving final approval of same;

(e) signing of contracts and related documents.

3. The ACP States, and other beneficiaries authorized by them, shall execute the projects and programmes financed by the Community; they shall in particular be responsible for preparing, negotiating and concluding the necessary contracts for the execution of these operations.

Article 226

1. The Commission shall appoint the Chief Authorizing Officer of the Fund, who shall be responsible for managing the Fund's resources. Taking account in particular of the advance timetables for commitments and payments referred to in Article 216(2), the Chief Authorizing Officer shall accordingly commit, clear and authorize expenditure and keep the accounts of commitments and authorisations.

2. In close co-operation with the National Authorizing Officer, the Chief Authorizing Officer shall ensure equality of conditions for participation in invitations to tender and see to it that there is no discrimination in the invitation to tender dossier and that the tender selected is economically the most advantageous. The Chief Authorizing Officer shall receive the result of the examination of tenders and approve the proposal for the placing of the contract, subject to the powers exercised by the Commission delegate under Article 228.

3. Subject to the powers, exercised by the national authorising Officer under 227, the chief authorizing Officer shall make any adaptation arrangements and commitment decisions that prove necessary to

ensure proper execution of approved operations from the economic and technical view points.

Article 227

1. (a) The Government of each ACP State shall appoint a National Authorizing Officer to represent the national authorities in all operations financed from the Fund's resources administered by the Commission.

(b) The National Authorizing Officer may delegate some of these functions and shall inform the Chief Authorizing Officer of any such delegation.

2. In addition to his responsibilities in connection with the preparation, submission and appraisal of projects and programmes, the National Authorizing Officer shall, in close cooperation with the commission 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 estimates and notify the Commission delegate thereof. He shall submit the invitation to tender dossier to the Commission delegate for agreement before issuing invitations to tender.

3. (a) The National Authorizing Officer shall transmit the result of the examination of the tenders and a proposal for letting the contract to the Commission delegate who shall check that the tenders conform to the regulations laid down and give his comments within the time limit specified in Article 228(3)(c) and (d), with effect from the date on which the delegate receives the proposal.

(b) After this time limit, the National Authorizing Officer's proposal shall be deemed to have been approved by the Commission.

4. The National Authorizing Officer shall clear and authorize expenditure within the limits of the funds assigned to this. He shall remain financially liable until the Commission gives final clearance for the operations for the execution of which he is responsible.

5. During the execution operations and subject to the requirement to inform the commission delegate, the National Authorizing Officer shall make any adaptation arrangements necessary to ensure the proper execution of approved operations from the economic and technical viewpoint.

Accordingly, the National Authorizing Officer shall decide on:

(a) technical adjustments and alterations in matters of detail, so long as they do not affect the technical solutions adopted and remain within the limits of the reserve for minor adjustments;

(b) minor alterations to estimates during execution;

(c) transfers from item to item within estimates;

(d) changes of site for multiple-unit projects 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; however, the delegate must be present at provisional acceptances, endorse the corresponding minutes and, where appropriate, be 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.

6. For contracts of less than 4 million ECU and generally for any contract subject to an expedited procedure. decisions taken by the National Authorizing Officer, under the powers conferred upon him. shall be deemed approved by the Commission within thirty days of their notification to the Commission delegate.

Article 228

1. (a) For the purpose of implementing this Convention and in respect of the resources administered by the Commission, the latter 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.

(b) 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.

2. At the express request of the ACP State, the delegate shall give technical assistance in preparing and appraising projects financed from the Fund's resources. To this end, he may participate in preparing dossiers. in negotiating, with external technical assistance, contracts for studies, for the services of experts and for works supervision, in seeking ways to simplify project appraisal and implementation procedures and in preparing invitation to tender dossiers.

3. The Commission shall give its delegate the necessary instructions and delegated power-e to facilitate and expedite the preparation, appraisal and execution of projects financed from the Fund's resources administered by it. The delegate shall work in close co-operation with the National Authorizing Officer and deal with that Officer on behalf of the Commission.

In this capacity the delegate shall:

(a) approve the invitation to tender dossier within one month wherever invitations are to be issued by expedited procedure, or in other cases transmit it, within one month of receiving it, to the Chief Authorizing Officer for publication;

(b) be present at the opening of tenders, and receive a copy of them and of the results of their examination;

(c) approve within one month the proposal for the placing of the contract in all cases where invitations to tender are issued by expedited procedure;

(d) approve within one month the National Authorizing Officer's proposal for the placing of the contract, irrespective of its value, wherever the following three conditions are fulfilled:

- the tender selected is the lowest;
- is economically the most advantageous and
- does not exceed the sum earmarked for the contract;

(e) where the conditions set out in (d) are not fulfilled, forward the proposal for the placing of the contract to the Chief Authorizing Officer for agreement, and the Chief Authorizing Officer shall decide thereon within two months of the receipt by the Commission delegate of the final outcome of the examination of the tenders and the proposal for the placing of the contract: in any event, the decision on the award of the contract shall be taken before the expiry of the tender validity period.

4. The delegate shall prepare the financing proposals.

5. The delegate shall, on a regular basis, and in certain cases acting on specific instructions from the Commission, inform the national authorities of Community activities which may directly concern co-operation between the Community and the ACP States.

6. The delegate shall co-operate with the national authorities in evaluating operations regularly. He shall draw up reports on the outcome of such evaluations and communicate them to the ACP State concerned and the Commission.

7. Each year the delegate shall assess the Fund's operations in the ACP State or regional grouping where he represents the Commission. Reports drawn up in this connection shall be communicated to the Commission and the ACP State concerned.

8. (a) The delegate shall make sure, on behalf of the Commission, that the projects and programmes financed from the Fund's resources administered by the Commission are executed properly from the financial and technical angles;

(b) accordingly, the delegate shall endorse contracts, riders thereto and estimates, as well as payment authorizations issued by the National Authorizing Officer.

Article 229

1. For the purpose of effecting payments in the national currencies of the ACP States, accounts denominated in the currency of one of the Member States or in ECUs shall be opened in each ACP State in the Commission's name 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 paying agent.

2. The accounts referred to in paragraph 1 shall be replenished by the Commission by reference to actual cash requirements, account being taken of the advance timetable for payments provided for in Article 216(2). Transfers shall be made in the currency of one of the Member States or in ECUs and shall be converted into the currency of the ACP State as and when payments fall due.

3. The paying agent shall not be remunerated for its services; no interest shall be payable on deposited funds.

4. Within the limits of the funds available, the paying agent shall make the disbursements authorized after verifying the supporting documents provided are substantively correct and in order, and that the discharge is valid.

5. In order to contribute towards the servicing of the resulting from Community loans from the Bank's resources, special loans and risk capital, the ACP States member in accordance with arrangements to be made on a case-by basis with the Commission, use the available foreign cur referred to in paragraph 2 for such servicing. as and when, repayment fall due and up to the amount required for meets in national currency.

6. For the purpose of effecting payments in currencies than the currencies of the ACP States, payment for services provided shall be made on instructions from the Community by drawing on its accounts.

Article 230

In general, payments shall be made in the form of advantage to the ACP States, so that they shall be spared any prefinancing burden; the Community may. however, effect payment to contractors, subject to the prior authorization of the States concerned and upon submission of relevant certificates of conformity.

Article 231

The procedures for clearance, authorization and payment of expenditure shall be completed within a maximum of:

- two months, in the case of supply and service contracts,
- three months, in the case of works contracts, from the date on which the payment was due.

SECTION 3

Competition and preferences

Article 232

1. As a general rule, works and supply contracts financed from the Fund's resources administered by the Commission shall be concluded following an open invitation to tender.

2. As regards operations financed by the Community participation in invitations to tender and contracts shall be open on equal terms to all natural persons and companies or within the scope of the Treaty and to all natural persons and companies or firms of the ACP States. The companies or firms referred to in the preceding subparagraph shall be defined in Article 253.

3. Measures to encourage the participation of ACP States enterprises in the performance of contracts shall be taken in order to permit optimum use of those States' physical human resources.

4. Paragraph 2 shall not imply that the Funds provided by the community must be used exclusively for purchases of goods or payment for services in the Member States of the Community and the ACP States.

5. In order to encourage the regional of the ACP States and to ensure the optimum cost-effectiveness of the system, non-ACP developing countries associated with the Community under comprehensive co-operation agreements may be authorized, case by case and by way of exception, to participate in contracts financed by the Community. at the reasoned request of the ACP States concerned.

6. The ACP States concerned shall provide the Commission with the information needed for a decision on such derogations. The Commission shall examine the information with particular attention to:

- (a) the geographical location of the ACP State concerned;
- (b) the competitiveness of suppliers and contractors from the Community and the ACP States;
- (c) the need to avoid excessive increases in the cost of operations;
- (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.

7. Participation by third countries in contracts financed by the Community may be authorized where the Community participates in the financing of regional, al or inter-regional co-operation schemes involving third countries and in the joint financing of projects with other providers of funds.

Article 233

1. The ACP States and the Commission shall take the necessary measures to ensure the widest possible participation on equal terms in invitations to tender and works and supply contracts financed from the Fund's resources administered by the Commission.

2. The purpose of these measures shall be in particular to:

- (a) ensure publication of invitations to tender in the Official Journal of the European Communities, the official journal of the ACP States and any other suitable 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 enterprises of the Member States and of the ACP States, for example by means of pre qualification and the creation of consortia.

Article 234

With the aim of ensuring the rapid and effective implementation of projects and programmes financed by the Community:

1) operations the estimated cost of which is less than 4 million ECU may be performed by direct labour subject to approval b! the Community and where the recipient ACP State has sufficient suitable equipment and qualified staff available in its national departments;

2) without prejudice to the provisions of(1), an expedited procedure for issuing invitations to tender shall be organized in the case of works contracts the estimated cost of which is less than 4 million ECU.

The organization of this expedited procedure shall not rule out the possibility of issuing an international invitation to tender where it appears that the nature of the works to be performed or the usefulness of widening participation justify resource to international competition;

3) for operations relating to emergency aid and for other operations where urgency of the situation is established or where the nature. small scale or certain particular characteristics of the works or supplies so warrant, the ACP States may, in agreement with the Commission, authorize the placing of contracts by direct agreement or after restricted invitations to tender. However. in the case of emergency aid, it shall also be possible to have recourse to direct labour.

Article 235

To promote the widest possible participation by -national enterprises of the ACP States in the performance of works and supply contracts financed from the Fund's resources administered by the Commission, the following measures shall be adopted:

- 1) for carrying out works the value of which is less than 4 million ECU. national enterprises of the ACP States shall be accorded a 10% preference where tenders of equivalent economic and technical quality are compared. This preference shall be confined to national enterprises of the ACP States within the means of the national laws of these States. provided that their residence for tax purposes and main business headquarters are established in an ACP State and that a significant share of the capital and management staff is supplied by one or more ACP States;
- 2) for the delivery of supplies, irrespective of their value, enterprises of the ACP States shall be accorded a 15% preference where tenders of equivalent economic and technical quality are compared. This preference shall be confined to national enterprises of the ACP States which account for a sufficient margin of added value.

Article 236

1. For each operation the criteria for selecting the tender that is economically the most advantageous shall take into account inter alla the qualifications of and the guarantees offered by the tenderers the nature and conditions of implementation of the works or supplies and the price, operating costs, and technical value of those works or supplies and the offer of an after-sales service in the ACP State concerned.
2. Where two tenders are acknowledged to be equivalent on the basis of the criteria stated above. preference shall be given to the tender of the enterprise which is a national of an ACP State or if no such tender is forthcoming, to the one which permits the greatest possible use of the physical and human resources of the ACP States.
3. The ACP States and the Commission shall ensure that all the selection criteria are specified in the invitation to tender dossier.

Article 237

1. The general conditions applicable to the award and performance of works and supply contracts financed from the Fund's resources administered by the Commission are contained in the general conditions, which shall be adopted by decision of the Council of Ministers at its first meeting following the entry into force of this Convention, after consultation of the ACP-EEC Committee referred to in Article 193.
2. Until the implementation of the decision provided for in paragraph 1, the award and performance of public contracts financed by the Fund shall be governed:
 - in respect of the ACP States party to the Convention signed at Yaounde on 29 July 1969, by the legislation in force at 31 January 1975,
 - in respect of the other ACP States. by their national legislation or established practices regarding international contracts.

Article 238

1. Any dispute arising between the authorities of an ACP State and a contractor, supplier or provider of services, candidate or tenderer, on the occasion of the placing or performance of a contract fine need by the Fund shall be settled by arbitration in accordance with procedural rules adopted by the Council of Ministers.

2. The procedural rules referred to in paragraph 1 shall be adopted by decision of the Council of Ministers not later than its first meeting following the entry into force of this Convention, after consultation of the ACP-EEC Committee referred to in Article 193.

3. As a transitions measure pending the implementation of the decision provided for in paragraph 2, the final decision on all disputes shall be taken in accordance with the rules conciliation and arbitration of the International Chamber of Commerce.

SECTION 4

Tax and customs arrangements

Article 239

The tax and customs arrangements applicable in the ACP States to contracts financed by the Community are set out in Protocol 6.

TITLE IV

Investment, capital movements, establishment and services

CHAPTER 1

Investment

Article 240

The Contracting parties recognize the importance of private investment for the promotion of their development co-operation and acknowledge in this respect the need to take such steps as would promote such investment. In this regard the Contracting Parties jointly and severally agree to:

(a) implement measures to encourage private economic operators who comply with the objectives and priorities of their development co-operation and with the appropriate laws and regulations of their respective States to participate in their development efforts ;

(b) accord fair and equitable treatment to such investors. and encourage and create clear and stable conditions conducive to the participation of such investors;

(c) maintain a predictable and secure investment climate and be prepared to enter into negotiations on agreements which will improve such a climate and, in so doing, further mutual interests;

(d) promote effective co-operation amongst their respective economic operators.

Article 241

1. In order to accelerate further their development co-operation and the expansion of directly productive investment. the Contracting Parties, using the technical and financial assistance provided within this

Convention, agree to study measures which will facilitate an increased and more stable flow of private capital and which will further enhance:

- (a) joint financing of productive investments with the sector;
- (b) access by interested ACP States to international financial markets:
- (c) the activity and effectiveness of domestic financial markets;

2. To this end, the Contracting Parties agree to review the economic, technical, legal or institutional obstacles which currently hamper such developments as well as the acquired to remove these obstacles, with due respect for international commitments, in order to promote further the development of productive investment.

Article 242

1. Taking account of the link between investment decision the capacity of the ACP States to generate adequate earnings to service the investment and the ability effectively support existing and new productive investment. the Community undertakes to explore ways and means to provide within the framework of financial and technical co-operation:

- (a) credit lines to finance imports of intermediate m.. needed for the export industries of a requesting ACP State;
- (b) appropriate and effective support for export promotion.

2. Taking account of the role of domestic development financing institutions as channel and intermediary for attracting private capital flows into development co-operation, the contracting Parties agree. within the framework of financial and technical co-operation, to encourage the setting-up strengthening of:

- (a) national or regional financing institutions to finance exports and guarantee export credits;
- (b) regional payment mechanisms that would facilitate intra-ACP trade.

Article 243

1. 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 merest, investment promotion and protection agreements which could also provide the basis for insurance and guarantee schemes.

2 In order to further 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.

Article 244

1 The Contracting Parties agree to undertake a joint study of the scope and appropriate mechanisms of a joint ACP-EEC insurance and guarantee system, complementary to existing national systems that could have a positive effect on the flow of private-sector resources from the Community to the ACP States.

2 The Contracting Parties further agree to explore the use of private sector market insurance to insure additional private capital flows to the ACP States.

Article 245

In order to promote the development of private investment flows, the Community and the ACP States hereby agree, within the framework of this Convention and in co-operation with other interested bodies, to:

(a) encourage the flow of information on investment opportunities between financial or development finance institutions. Other specialized financial institutions and other potential investors and sponsors by organizing periodic investment promotion meetings, making available periodic information on existing financial or other specialized institutions, their facilities and conditions and encouraging the establishment of focal points in ACP States; |

(b) make a detailed analysis, taking full account of work being done in other institutions of possible net increases in the flow of funds for investment financing that might result from great use of co-financing and joint ventures and, in this regard, enable suggestions to be made to multilateral, regional and other institutions regarding ways and means of improving and increasing the number of such arrangements in order to expand the funds available to ACP States in the form of equity and long-term capital;

(c) strengthen, with financial and technical assistance from the Community, existing activities to promote European private investment in the ACP States by organizing discussions between any ACP State interested and potential private investors on the legal and financial framework which that ACP State offers or might offer to a potential investor:

(d) encourage the dissemination to all interested parties, of information on the nature and availability of investment guarantees and insurance mechanisms to facilitate investment in ACP States, and encourage or prepare, wherever appropriate the creation or expansion of such mechanisms in ACP States, if necessary in collaboration with other appropriate agencies:

(e) provide assistance to small and medium-sized enterprises in ACP States in designing and obtaining equity and loan financing on optimal terms and conditions;

(f) explore ways and means of overcoming or reducing the host country risk for individual investment projects that are in themselves viable and could contribute to economic progress:

(g) help ACP States to:

(i) improve the quality of feasibility studies and the preparation of projects with appropriate economic and financial effects:

(ii) introduce integrated project management covering the entire project development cycle within the framework of the development programme of the State.

Article 246

1. The Contracting Parties hereby recognize that the least developed, landlocked and island ACP States suffer from certain unique disadvantages which render them less attractive to private investment.

The Contracting Parties therefore commit themselves to undertaking, as soon as possible after the entry into force of this Convention, a joint study to identify the specific measures it may be desirable to adopt

in relation to those States in order to improve their attractiveness to investment.

Article 247

1. In order to improve understanding of the issues involved in private-sector flows and the effectiveness of attempts to encourage such flows, the Contracting Parties hereby agree that the Commission shall, with their assistance, produce regular reports for the information of the Council of Ministers on flows of investment, lending, payment arrears and capital movements between the Community and the ACP States.

2. The Contracting Parties hereby agree that the issues relating to the promotion and protection of investment in their respective territories may be the subject of discussions in the appropriate ACP-EEC co-operation forum or of consultations between the ACP State concerned and the Community, especially where particular investment promotion schemes are being implemented.

3. The Contracting Parties hereby agree to launch all the studies referred to in this Chapter in the shortest possible time and, in any event, not later than one year after the entry into force of this Convention. The result of these studies will be submitted upon completion to the interested parties for consideration and appropriate action, not later than two years after the entry into force of this Convention.

CHAPTER 2

Provisions relating to current payments and capital movements

Article 248

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, services, establishment and industrial co-operation.

These obligations shall not, however, prevent the Contracting Parties from adopting the necessary protective measures should this be justified by reasons relating to serious economic difficulties or severe balance-of-payments problems.

Article 249

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-a-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 international monetary rules and every effort shall be made to minimize any adverse effects on the parties concerned.

Article 250

Throughout the duration of the loans and risk capital operations provided for in Article 194, each of the ACP States hereby undertakes to:

(a) place at the disposal of the beneficiaries referred to in Article 191 the currency necessary for the payment of interest and commission on and amortization of loans and quasi-capital aid granted for the implementation of aid measures on their territory;

(b) make available to the Bank the foreign currency necessary for the transfer of all sums received by it in national currency 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 251

At the request of the Community or of the ACP States, the Council of Ministers shall examine any problems raised by the application of Articles 248, 249 and 250. It shall also formulate any relevant recommendations.

CHAPTER 3

Provisions relating to establishment and services

Article 252

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

Article 253

For the purpose of this Convention "companies or firms" mean companies or firms constituted under civil or commercial law, including cooperative societies and other legal persons governed by public or private law, save those which nonprofit making.

"Companies or firms of a Member State or of an ACP State" means companies or firms formed in accordance the law of a Member State or an ACP State and whose registered office, central administration or principal place of business is in a Member State or ACP State; however, a company or firm having only its registered office in a Member State or an ACP State must be engaged in an activity which has effective and continuous link with the economy of that Member State or the ACP State.

Article 254

At the request of the Community or of the ACP State council of Ministers shall examine any problems raised by the application of Articles 252 and 253. It shall also formulate relevant recommendations.

TITLE V

General provisions for the least-developed, landlocked and island ACP States

Article 255

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 this Convention.

In this spirit, the following Articles contain specific provisions and adjustments the general provisions applicable to all ACP States. with details of derogations from such provisions in different fields.

CHAPTER 1

Least-developed ACP States

Article 256

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.

Article 257

1. The following shall be considered least-developed A States for the purposes of this Convention:

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

Kiribati	Uganda
Lesotho	Vanuatu
Malawi	Western Samoa
Mali	

2. The list of least-developed ACP States may be amended by decision of the Council of Ministers 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 258

The provisions laid down pursuant to Article 256 in respect of the least-developed ACP States are contained in the following Articles:

- Agricultural co-operation and food security Article 36 first indent, Article 37(3)
- Industrial development: Article 74 second and third paragraph
- Transport and communications: Article 93
- Development of trade and services: Article 96(3)
- Regional co-operation: Article III
- General trade arrangements: Article 142
- Stabilization of export earnings from agricultural commodities: Article 155(2) and (3)(c), Article 161(2), Article 162(2),
- Mining products: special financing facility (Sysmin): Article 180, Article 184 1
- Financial and technical co-operation: Article 185 under (i). Article 188(2)(c). Article 190(2) second indent, Article 196(2)(c), Article 197(11). Article 201(4). Article 219(6)
- Investment: Article 246
- Rules of origin: Protocol 1: Articles 29 and 30(4) and (8)(a).

CHAPTER 2

Landlocked ACP

Article 259

Specific provisions and measures shall be established to support landlocked ACP States in their efforts

to overcome the geographical difficulties and obstacles hampering their development.

Article 260

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 Ministers where a third state in a comparable situation accedes to this Convention.

Article 261

The provisions laid down pursuant to Article 259 in respect of the landlocked ACP States are contained in the following Articles:

Agricultural co-operation and food security: Article 36 second Indent

- Industrial development: Article 74 second paragraph
- Transport and communications: Article 93
- Development of trade and services: Article 96(3)
- Regional co-operation: Article 111
- General trade arrangements: Article 142
- Stabilization of export earnings from agricultural commodities: Article 155(2) and (3)(c), Article 161(2). Article 162(2)
- Mining products: special financing facility (Sysmin): Article 180
- Financial and technical co-operation: Article 185 under i, Article 190(2) second indent, Article 197(11)
- Investment: Article 246

CHAPTER 3

Island ACP

Article 262

Specific provisions and measures shall be established to support island ACP States in their efforts to overcome the specific natural and geographical difficulties and obstacles, such as their fragmentation and the consequences of natural disasters, hampering their development.

Article 263

1. The island ACP States are:

Antigua and Barbuda	Papua New Guinea
Bahamas	Saint Christopher and Nevis
Barbados	Saint Lucia
Cap Verde	Saint Vincent and the Grenadines
Comoros	Sao Tome and Principe
Dominica	Seychelles
Fiji	Solomon Islands
Grenada	Tonga
Jamaica	Trinidad and Tobago
Kiribati	Tuvalu
Madagascar	Vanuatu
Mauritius	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 264

The provision laid down pursuant to Article 262 in respect of the island ACP States are contained in the following Articles:

- Agricultural co-operation and food security: Article 36 third indent
- Industrial development: Article 74 second paragraph,
- Transport and communications: Article 93
- Development of trade and services: Article 96(3)
- Regional co-operation: Article 111
- General trade arrangements: Article 142

- Stabilization of export earnings from agricultural commodities: Article 155(2), Article 161(2), Article 162(2)
- Mining products: special financing facility (Sysmin): Article 180
- Financial and technical co-operation: Article 185 under(i) Article 190(2) second indent, Article 197(11)
- Investment: Article 246.

PART FOUR

Operation of the institutions

CHAPTER 1

The Council of Ministers

Article 265

The Council of Ministers shall act by agreement between the Community on the one hand and the ACP States on the other.

Article 266

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 269(6).

Article 267

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 268

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-President, assisted by advisers, may have regular consultations and exchanges of views between meetings of the Council of Ministers.

Article 269

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 deliberations on specific co-operation areas or problems, in accordance with the provisions of Article 272(2).

Article 270

Without prejudice to Article 269(6), the Council of Ministers may, at its meetings, delegate the task of preparing its discussions and conclusions on specific items of the agenda to restricted ministerial working parties constituted on a basis of parity.

Article 271

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 conditions laid down in Article 265.

CHAPTER 2

The Committee of Ambassadors

Article 272

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 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 every six months.

Article 273

1. The office of Chairman of the Committee of Ambassadors shall be held alternately by a Permanent Representative Member State designated by the Community and a head of mission representing an ACP State designated by the 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 Ambassadors

Article 274

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 275

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 276

The Joint Assembly shall consider the annual report drawn up under Article 269(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 277

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 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 278

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-Presidents 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 279

The Contracting Parties shall 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 280

The operating expenses of the institutions of this Convention shall be defrayed in accordance with the terms set out in Protocol 2.

Article 281

The privileges and immunities for the purposes of this convention shall be as laid down in Protocol 3.

PART FIVE

Final provisions

Article 282

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 283

Subject to the special provision regarding the relations between the ACP States and the French overseas departments I provided for therein, this Convention shall apply, on the one I hand, to the territories in which the Treaty is applied and under the conditions laid down that Treaty and, on the other hand, to the territories of the ACP States.

Article 284

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:

- 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 285

1. (a) As regards the Community this Convention shall be validly concluded in accordance with the provisions of the EEC and ECSC Treaties, the cone fusion 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 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 286

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.
2. Any ACP State which has not completed the procedures set out in Article 285 by the date of the entry into force of this Convention as specified in paragraph 1. may do so only within the twelve months following such entry into force and shall be able to proceed with these procedures only during the twelve months following such entry into force, unless before the expiry of this period it gives notice to the Council of Ministers of its intention to complete these procedures not later than six months after this period and 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 285 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 285, 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 285. 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 287

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 288

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 financial and technical co-operation and on the stabilization of

export earnings.

Article 289

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 financial and technical cooperation, the stabilization of export earnings and industrial co-operation.

Article 290

As from the entry into force of this Convention, the powers conferred upon the Council of Ministers by the second ACP-EEC Convention of Lome, signed at Lome on 31 October 1979, 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 291

This Convention shall expire after a period of five from the first day of March 1985, namely on the twenty day of February 1990. Eighteen months before the end of this period 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 into force.

Article 292

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 293

The Protocols annexed to this Convention shall form an integral part thereof.

Article 294

This Convention, drawn up in two copies in the D. Dutch, English, French, German, Greek and Italian languages, all texts being equally authentic, shall be deposited in archives of the General Secretariat of the Council of the European Communities and the Secretariat of the ACP which shall both transmit a certified copy to the government of each of the Signatory States.

PROTOCOLS

PROTOCOL 1

concerning the definition of the concept of 'originating products' and methods of administrative co-operation

TITLE

Definition of the concept of originating products

Article 1

1. For the purpose of implementing the Convention and without prejudice to paragraphs 3 and 4, the following products shall be considered as products originating in an ACP State, provided that they have been transported directly, within the meaning of article 5:

(a) products wholly obtained in one or more ACP States,

(b) products obtained in one or more ACP States in the manufacture of which products other than those referred to in (a) are used, provided that the said products have undergone sufficient working or processing within the meaning of Article 3.

2. For the purpose of implementing paragraph 1, the ACP States shall be considered as being one territory.

3. When products wholly obtained in the Community or in the countries and territories defined in Explanatory Note 10 undergo working or processing in one or more ACP States they shall be considered as having been wholly produced in that or those ACP States, provided that the products have been transported directly within the meaning of Article 5.

4. Working and processing carried out in the Community or in the countries and territories, shall be considered as having been carried out in one or more ACP States, when the final products undergo working or processing in one or more ACP States, provided that the products have been transported directly within the meaning of Article 5.

5. For the purpose of implementing the previous paragraphs. and provided that all the conditions laid down in those paragraphs are fulfilled, the products obtained in two or more ACP States shall be considered as products originating in the ACP State where the last working or processing took place. For this purpose the working or processing listed in Article 3(4)(a), (b), (c) and (d) shall not be considered as working or processing, nor shall a combination of such working or of such processing.

6. The products set out in List C of Annex IV 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 2

The following shall be considered as wholly obtained either in one or more ACP States, or in the Community or in the countries and territories within the meaning of Article I and (3):

(a) mineral products extracted from their soil or from 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 in;
- (f) products of sea fishing and other products taken from the sea by their vessels;
- (g) products made aboard their factory ships exclusively products referred to in subparagraph(f):
- (h) used articles collected there fit only for the recovery cat materials;
- (i) waste and scrap resulting from manufacturing opera conducted therein;
- (j) goods produced there exclusively from the products fled in subparagraphs (a) to (i).

Article 3

1. For the purpose of implementing Article 1(1)(b) the following shall be considered as sufficient working or processing.

- (a) working or processing as a result of which the goods obtained receive a classification under a tariff heading other than that covering each of the products worked or processed, except, however, working or processing specified in List A in Annex II, where the special provisions of that list apply;
- (b) working or processing specified in List B in Annex III.

"Sections", "Chapters" and "tariff headings" shall r the Sections, Chapters and headings in the Customs Co-operation Council Nomenclature for the Classification of Goods in Customs Tariffs.

2. Notwithstanding the provisions of paragraph I and without prejudice to the other provisions of this Title. the incorporation of non-originating materials and parts in a given product obtained shall only make such products lose their originating status if the value of the said materials and parts incorporated exceeds 5% of the value of the finished product.

3. Where. for a given product obtained. two or more percentage rules limit. in either List A or List B or in both, the value of the materials and parts which may be used, the total of these materials and parts, whether or not they have changed tariff heading in the course of the working, processing or assembly within the limits and under the conditions laid down in the said lists, may not exceed in relation to the value of the product obtained, the value corresponding either, where the rates are identical, to this common rate, or to the higher of the rates if they are different. These provision shall also apply where paragraph 2 is applied.

4. For the purpose of implementing paragraph 1(a) the following shall always be consider as insufficient working or processing to confer the status of originating products, whether or not there is a change of tariff heading:

- (a) operations to ensure the preservation of merchandise 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 in 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 mixtures do not meet the conditions laid down in this Protocol to enable them to be considered as originating either in an NCP State, the Community or in the countries and territories;
- (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 countries and territories 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

Where the Lists A and B referred to in Article 3 provide that goods obtained in an ACP State shall be considered as originating therein only if the value of the products worked or processed does not exceed a given percentage of the value of the goods obtained, the values to be taken into consideration for such percentage shall be

- On the one hand, as regards products whose import can be proved, their customs value at the of import, and as regard products of undetermined origin, the earliest ascertainable price paid for this products in the territory of the Contracting Party where manufacture takes place;
- and on the other hand, the ex-works price of the goods obtained, less internal taxes refunded or refundable on export;

Article 5

1. For the purpose of implementing Article 1(1), (3) and (4), products whose transport is effected without entering into territory other than that of the parties concerned are considered as transported directly from the ACP States to the Community or from the Community or the countries and territories to the ACP States. Goods constituting one single consignment may be transported through territory other than that of the ACP States or the Community or the countries and territories, with, should the occasion arise, transshipment or temporary warehousing in such territory, provided that the crossing of the latter territory is justified for geographical reasons or the needs of transport and that the products have not entered into commerce or been delivered for home use and have not undergone operations other than unloading, reloading or any operation designed to preserve them in good condition.

Interruptions or changes in the method of transport due to force majeure or consequent upon conditions at sea shall not affect the application of the preferential treatment laid down in this Protocol, provided that the goods have not, during these interruptions or changes, entered into commerce or been delivered for home use and have not undergone any operations other than those designed to preserve them in good condition.

2. Evidence that the conditions referred to in paragraph I have been fulfilled shall be supplied to the responsible customs authorities in the Community 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 the embarkation or disembarkation, identifying the ships used,

certifying the conditions under which the goods remained goods remained in the transit country;

(c) or failing these, any substantiating documents.

TITLE II

Arrangements for administrative co-operation

Article 6

1. (a) Evidence of originating status, within the meaning of this Protocols of products is given by a movement certificate EUR. 1 of which a specimen appears in Annex V to this Protocol.

(b) However, 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 2000 ECU per consignment, is given by a form EUR.2, of which specimen appears in Annex VI to this Protocol.

(c) Up to and including 30 April 1985 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 1982. 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 the two-year period.

Revised amounts replacing the amounts expressed in ECU mentioned above ant in Article 16(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.

If the goods are invoiced in the currency of another Member State of the Community, the importing State shall recognize the amount notified by the State concerned.

2. 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 Customs Co-operation Council Nomenclature 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.

3. 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.

4. Sets, as defined in General Rule 3 of the Customs Co-operation Council Nomenclature, 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 the total value of the set.

Article 7

1. A movement certificate EUR.1 shall be issued by the customs authorities of the exporting ACP State when the goods to which it relates are exported. It shall be made available to the exporter as soon as actual export has been effected or ensured.

2. In exceptional circumstances a movement certificate EUR. 1 may also be issued, 1 after export of the goods to which it relates if it was not issued at the time of export because of errors or involuntary, or special circumstances. In this case, the certificate shall bear a special reference to the conditions in which it was issued.

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, of which a specimen appears in Annex V to this Protocol, which shall be completed in accordance with this Protocol.

4. 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.

5. Applications for movement certificates EUR. I must be preserved for at least three years by the customs authorities of the exporting country.

Article 8

1. The movement certificate EUR. I shall be issued by customs authorities of the exporting ACP State, if the goods can be considered "originating products" within the meaning of this Protocol.

2. For the purpose of verifying whether the conditions stated in paragraph I 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.

3. It shall be the responsibility of the customs authority of the exporting State to ensure that the forms referred to in Article 9 are duly completed. In particular, they shall check whether the space reserved for the description of the goods has been completed in such a manner as to exclude all possibility of fraudulent additions. To this end, the description of the goods must be indicated without leaving any blank lines. Where space is not completely filled a horizontal line must be drawn below the last line of the description, the empty space being crossed through.

4. The date of issue of the movement certificate must be indicated in the part of the certificate reserved

for the custom authorities.

Article 9

1. Movement certificates EUR. 1 shall be made out on form of which a specimen appears in Annex V to this Protocol. This form shall be printed in one or more of the language 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 x 297 mm, a tolerance up to plus 8 mm or minus 5 mm in the length may be allowed. The paper used must be white-sized writing paper not containing mechanical pulp and weighing not less than 25 g/m. 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 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 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.

Article 10

1. Under the responsibility of the exporter, he or his authorized representative shall request the issue of a movement certificate EUR. 1.

2. The exporter or his representative shall submit with request any appropriate supporting document proving that the goods to be exported are such as to qualify for the issue of a movement certificate EUR. 1.

Article 11

1. A movement certificate EUR. 1 must be submitted, within ten months of the date of issue by the customs authorities of the exporting State, to the customs authorities of the importing State where the goods are entered.

2. When the products enter a port of an ACP State or country or territory other than the country of origin, a further period of validity of ten months shall commence on the date on which the customs authorities in the part of transit enter the following in box 7 of the certificate EUR. 1:

- the word "transit",
- the name of the country of transit,
- a date stamp.

This procedure shall enter into force after a specimen of the date stamp used has been communicated to the Commission.

The Commission shall communicate this information to the customs authorities of the Member States.

3. 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 12

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 goods meet the conditions required for the implementation the Convention.

Article 13

1. A movement certificate EUR. 1 which is submitted to the customs authorities of the importing State after the final date of presentation specified in Article 11 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.

2. In other cases of belated presentation, the customs authorities of the importing State may accept the certificates where the goods have been submitted to them before the said final date.

Article 14

The discovery of slight discrepancies between the statements made in the movement certificate EUR. 1 and those made in the documents submitted to the customs office for the purpose of carrying out the formalities for importing the goods shall not ipso facto render the certificate null and void if it is duly established that the certificate does correspond to the goods submitted.

Article 15

Form EUR. 2, a specimen of which appears in Annex VI 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 and in capital letters.

Form EUR. 2 shall consist of a single sheet measuring 210 x 148 mm. The paper used shall be white-sized writing paper not containing mechanical pulp and weighing not less than 64 g m².

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 distinction sign attributed to the approved printer and a serial number, either printed or not, by which it can be identified.

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 despatch note. In the case of consignment by letter post, the exporter shall insert the form inside the package.

These provisions do not exempt exporters from complying with any other formalities required by customs or postal regulations.

Article 16

1. Goods 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 goods 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 goods 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 goods that no commercial purpose is in view. Furthermore, the total value of these goods must not exceed 140 ECU in the case of small packages or 400 ECU in the case of the contents of travellers' personal luggage.

Article 17

1. Goods sent from an ACP State for exhibition in a country other than an ACP State, a Member State or a "country or territory" and sold after the exhibition for importation into the Community shall benefit on importation from the provisions of the Convention on condition that the goods meet the requirements of this Protocol entitling them to be recognised as originating in an ACP State and provided that it is shown to the satisfaction of the customs authorities that:

(a) An exporter has consigned these goods from an ACP State to the country in which the exhibition is held and has exhibited them there;

(b) the goods have been sold or otherwise disposed of by that exporter to someone in the Community.

(c) The goods have been consigned during the exhibition or immediately thereafter to the Community in the state in which they were sent for exhibition;

(d) The goods have not, since they were consigned for exhibition, been used for any purpose other than demonstration at the exhibition.

2. A movement certificate EUR. I 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 goods and the conditions under which they have been exhibited may be required.

3. Paragraph 1 shall apply to any trade, industrial, agricultural or crafts exhibit on, fair or similar public show or display which is not organised for private purposes in shops or business premises with a view to the sale of foreign goods, and during which the goods remain under customs control.

Article 18

1. When a certificate is issued within the meaning of Articles 7(2) of this Protocol after the goods to which it relates have actually been exported, the exporter must in the application referred to in Article 7(3) of this Protocol:

- indicate the place and date of export of the goods to which the certificate relates,

- certify that no movement certificate EUR. 1 was issued at the time of export of the goods in question, and state the reasons.

2. The customs authorities may issue a movement certificate EUR. I 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: "NACHTRAEGLICH AUSGESTELLT", "DELIV15.E A POSTERIORI", "RILASCIATO A POSTERIORI", "AFGEGEVEN A POSTERIORI", "ISSUED RETROSPECTIVELY", "UDSTEDT EFTERFOLGENDE", "EKAOPEN EK TON YETEPQN".

Article 19

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: 'DUPLIKAT', "DUPLICATA", "DUPLICATO", "DUPLICAAT", "DUPLICATE", "ANTILPAO".

Article 20

1. When paragraphs 2, 3 and 4 of Article 1 are 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 products coming from other ACP States, the Community or "countries or territories" are used, shall take into consideration the declaration, of which a specimen appears in Annex VII, given by the exporter in the State, country or territory from which it came, either on the commercial invoice applicable to these products, or on a supporting document to that invoice.

2. The submission of the information certificate, issued under the conditions set out in Article 21 and of which a specimen appears in Annex VII, may however be requested of the exporter by the customs office concerned, either for checking the authenticity and accuracy of information given on the declaration provided for in paragraph 1, or for obtaining additional information.

Article 21

The information certificate concerning the products taken into use shall be issued at the request of the exporter of these products, either in the circumstances envisaged in Article 20(2), or at the initiative of this exporter, by the competent customs office in the State, country or territory from which these goods were exported. It shall be made out in duplicate.

One copy shall be given to the exporter who has requested who shall send it either to the exporter of the final product to the customs office where the issue of the movement certificates EUR. 1 for these products has been requested. The second copy shall be preserved by the office which has issued it for at least three years.

Article 22

The ACP States shall take all necessary steps to ensure goods traded under cover of a movement certificate EUR. 1, 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 normal operations designed to prevent their deterioration.

Article 23

1. 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 EUR. 1 and forms EUR. 2.

The Commission shall send this information to the Customs authorities of the Member States.

2. In order to ensure the proper application of this Title, Member States, the countries and territories 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 20.

Article 24

Penalties shall be imposed on any person who, in order to enable goods 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 25

1. Subsequent verifications 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 goods in question.

2. 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 photocopy thereof, to the customs authorities of the exporting State, giving, where appropriate, the reasons of form or substance for an inquiry. The invoice, if it has been submitted, 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.

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 release the goods to the importer subject to any precautionary measures judged necessary.

3. The customs authorities of the importing State shall be informed of the results of the verification within three months. These results must be such as to make it possible to determine whether the disputed movement certificates EUR. 1 or forms EUR. 2 applied to the goods actually exported, and whether these goods can, in fact, qualify for the application of the preferential arrangements.

When such disputes cannot be settled between the customs authorities of the importing State and those of the exporting State, or when they raise a question as to the interpretation of this Protocol, they shall be submitted to the Customs Co-operation Committee provided for in Article 28.

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 26

The subsequent verification of the information certificate referred to in Article 20 shall be carried out in the circumstances envisaged in Article 25 following a similar procedure to that envisaged in that Article.

Article 27

In accordance with Article 138 of the Convention the Council of Ministers shall examine annually, or whenever the ACP States or the Community so requests, 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 28

1. A Customs Co-operation 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 meet regularly, in particular to prepare the decisions of the Council of Ministers pursuant to Article 27.

3. The Committee shall take decisions on derogations from this Protocol, under the conditions laid down in Article 30.

4. The Committee shall be composed on the one hand of experts of Member States and of officials of the Commission who are 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 29

The Customs Co-operation Committee shall examine regularly the effect on the ACP States and in particular on the least developed ACP States of the application of the rules of origin and shall recommend to the Council of Ministers appropriate

Article 30

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 Explanatory Note 11.

2 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 affect significantly 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 realisation of the investment programme would enable these rules to be satisfied by stages.

3. 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.
4. In addition when a request for derogation concerns a least developed 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 least-developed ACP State concerned and its difficulties.
5. In the examination of requests, special account shall be taken, case by case, of the possibility of conferring originating status on products which include in their composition products 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.
6. Irrespective of paragraphs 1 to 5, 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 60% 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.
7. The Committee shall take steps necessary to ensure that a decision is reached as quickly as possible, and in any case not later than three months after referral to the Community. 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.
8. (a) The derogations shall be valid for a period, generally of three years, to be determined by the Committee. This period may be extended to a maximum of five years where the derogation concerns a least-developed ACP State.
- (b) The derogation decision may provide for renewals for periods of one year 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 7. 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.

Article 31

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 32

The Annexes to this Protocol shall form an integral part thereof.

Article 33

The Community and the ACP States shall each take the steps necessary to implement this protocol.

ANNEX I

Explanatory notes

Note 1 - Articles 1 and 2

The terms "one or more ACP States", "the Community" and "countries and territories" 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 countries and territories to which they belong, provided that they satisfy the conditions set out in explanatory note No 7.

Note 2 - Article 1(1)(b)

In order to determine whether goods originate in an ACP State, the Community or one of the countries or territories, 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 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.

Note 3 - Article 1 and 3

The working or processing required by this Protocol for a product to acquire originating status concerns only the non-originating materials used. Thus, a material which has acquired originating status and which is used in further manufacture is subject neither change of tariff heading rule nor to List A or List B rules apply to the final product in which it is incorporated.

Note 4 - Article 1

Where a percentage rule is applied in determining originating

status of a product obtained in an ACP State, the added by the working or processing referred to in Article 1, shall correspond to the ex-works price of the product obtained less the customs value of third-country products imported into the Community, the ACP States or the "countries and territories".

Note 5 - Article 3(1) and (3) and Article 4

The percentage rule constitutes, where the product obtained appears in List A, a criterion additional to that of change of tariff heading for any non-originating product used.

Note 6 - Article 1

For the purpose of applying the rules of origin, packaging material is regarded as forming a whole with the products contained therein. This provision, however, shall not apply to packaging which is not of the

normal type for the article packed and which has intrinsic utilisation value and is of a durable nature, apart from its function as packaging.

Note 7

The term "their vessels" shall apply only to vessels:

- which are registered or recorded in a Member State ACP State;
- which sail under the flag of a Member State or an State,
- which are owned to an extent of at least 50% by nationals of States party to the Convention or by a Company with its head office in one of these States, of which the manager or managers, chairman of the board of directors or of the supervisory board, and the majority of the members of such boards are nationals of States party to the Convention 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;
- of which at least 50% of the crew, master and officers included, are nationals of States party to the Convention.

Note 8 re Article 4

- "Ex-works price" shall mean the price paid to the manufacturer in whose undertaking the last working or processing is carried out, provided the price includes the value of all the products used in manufacture.

"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.

Note 9 re Article 23

The authorities consulted shall furnish any information concerning the conditions under which the product has made, indicating especially the conditions in which the rules of origin have been respected in the various ACP States, Member States or countries and territories concerned.

Note 10 re Article 1(3)

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.

Note 11 re Article 30(1)

In order to facilitate the examination by the Customs Cupertino Committee of request for derogation, the ACP State making the request shall 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 products originating in a third country
- nature and quantity of products originating in ACP States the Community or the overseas countries and territories or which have been processed there,

- manufacturing process,
- value added,
- number of employees in the enterprise concerned.
- anticipated volume us 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 apply to any requests for extension.

The period stipulated in Article 30(7) shall run from the date of notification to the Community.

PROTOCOL 2

on the operating expenditure of the joint institutions

THE CONTRACTING PARTIES,

HAVE AGREED upon the following provisions, which she 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 practice 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 v 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 176 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 Community and the other half by the ACP States.

Expenditure relating to any Registry set up by the arbitrators, to preparatory inquiries into the 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 the 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;

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.

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 transmission 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 organisations.

Official correspondence and other official communications of the European Economic Community, the joint institutions of the Convention and the co-ordinating bodies shall be subject to censorship.

CHAPTER 4

Staff of the Secretariat of the ACP States

Article 7

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 Council of ACP Ministers shall enjoy in the State in which the Council of ACP Ministers is established under the responsibility of the Chairman of the Office of the Committee of ACP Ambassadors, the advantages accorded to diplomatic staff of diplomatic missions. Their spouses and children under age living in their household shall be treated, under the same conditions, to the advantages accorded to the spouses and children under age of such diplomatic 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, only in respect of acts done by them in the performance of their official duties, immunity shall not, however, apply to infringements of 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 of the 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

Ministers to the Government of the State in whose territory the Council of ACP Ministers is established.

CHAPTER 5

General provisions

Article 10

The privileges, immunities and facilities provided for in 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 waiver of such immunity is not contrary to its own interest.

Article 11

Article 176 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 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 I 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 protection and marketing of bananas. This aim shall be pursued through all the means available under the arrangements of the Convention to financial, technical, agricultural, industrial and regional cooperation. 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 with 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 financial and technical co-operation.

PROTOCOL 5

on Rum

Article 1

Until the entry into force of a common organization of the market in spirits, products of tariff subheading 22.09 C I 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 129 and by derogation from Article 130 (1) of the Convention, the Community shall each year fix the quantities which may be imported free of customs duties 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 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 170 000 hectolitres of pure alcohol.

(b) Where the application of point (a) hampers the development of a traditional trade flow between the ACP States and a Member States the Community shall take appropriate measures to remedy the situation.

(c) To the extent that the consumption of rum increases significantly in the Member States, the Community undertakes to carry out a new examination of the annual percentage increase fixed by this Protocol.

(d) The Community declares itself prepared to conduct appropriate consultations before determining the measures provided for in (b).

(e) The Community further declares itself willing to seek with the ACP States concerned measures to allow an expansion of their sales of rum on non-traditional markets.

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, within the framework of the provisions of Title VI, Part TWO, of the Convention, shall assist the ACP States in promoting and expanding their sales in the traditional and non-traditional markets of the Community.

PROTOCOL 6

on the tax and customs arrangements applicable in the ACP States to contracts financed by the Community

Article 1

1. The ACP states shall apply to contracts financed by Community tax and customs arrangements no less favourable than those applied vis-a-vis the most-favoured State or most favoured international development organisation.

For the purpose of applying the first subparagraph no, account shall be taken of arrangements other developing countries.

2. Subject to paragraph 1, the ACP States shall apply to contracts financed by the Community the arrangements laid out in Articles 2 to 12.

Article 2

Contracts final by the Community shall not be subject the beneficiary ACP State to stamp or registration duties fiscal charges have equivalent effect, whether such charge exist or are to be instituted.

They may, however, be subject to the formality of registration, in accordance with the laws in force in the ACP State This formality may entail the collection of fees which correspond to payment for the service provided and which do not exceed the cost of the deed, in accordance with the legal provisions in force in each ACP State concerned.

Article 3

1. Study, inspection or supervision contracts financed by the Community shall not give rise to turnover tax in the beneficial ACP State.

2. Profits arising carrying out works, study, inspection or supervision contracts financed by the Community shall be taxable according to the internal fiscal arrangements of the ACP State concerned, provided that the natural or legal persons who realized such profits in that State have a permanent place of business there or that the contracts take longer than six months to carry out.

Article 4

1. Imports under a supply contract financed by the Community shall cross the frontier of the beneficiary ACP State without being subject to customs duties, import duties, taxes or fiscal charges having equivalent effect.

2. Where a supply contract financed by the Community involves a product originating in the beneficiary ACP State, the contract shall be concluded on the basis of the ex-works price of the supplies in question, to which shall be added the internal fiscal charges apply in the ACP State to those supplies.

3. The exemption shall be expressly provided for in the text of the contract.

Article 5

Fuels, lubricants and hydrocarbon binders and all materials used in the performance of a work financed by the Community shall be deemed to purchased on the local market and shall be subject fiscal rules applicable under the national legislation in force in the beneficiary ACP State.

Article 6

Enterprises which must import professional equipment in order to carry out works contracts shall, if they so benefit from the system of temporary admission as by the national legislation of the beneficiary ACP

state in respect of the said equipment.

Article 7

Professional equipment necessary for carrying out tasks defined in a study, inspection or supervision temporarily admitted into the beneficiary ACP State free of fiscal, import and customs duties and of other - having equivalent effect where these duties and charges do not constitute remuneration for services rendered.

Article 8

1. Personal and household effects imported for per; by natural persons, other than those recruited locally in carrying out tasks defined in a study, inspection or supervision contract shall be exempt from customs duties, taxes and other fiscal charges having equivalent within the limit of the national legislation of the beneficiary ACP State.

2. These provisions shall also apply to members of families of the persons referred to in paragraph 1.

Article 9

1. The Commission delegate and the staff appointed the delegations, with the exception of staff recruited local be exempt from all direct taxes in the ACP State in which they are installed.

2. The staff referred to in paragraph 1 shall also be covered by Article 8.

Article 10

The ACP States shall grant exemption from all net local duties or fiscal charges on the interest, commission and amortisation due on assistance given by the Community in the form of special loans, subordinated or conditional through risk capital or loans from the own resources Bank, as referred to in Articles 197 and 199 of the convention.

Article 11

Any matter not covered by this Protocol shall remain subject to the national legislation of the States party to the convention.

Article 12

The provisions of this Protocol shall apply to the performance of all contracts financed by the Community and concluded subsequent to the entry into force of the Convention.

PROTOCOL 7

containing the text of Protocol 3 on ACP sugar appearing in the ACP-EEC Convention of Lome 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 impost, 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 organisation of the sugar market which, however, shall in no way prejudice the commitment, if 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 I 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 twelve-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 the 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 twelve-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 have the additional period referred to in paragraph 1, to shortfall shall be re-allocated by the Commission for derive during the delivery period in question. Such re-allocation shall be made by the Commission after consultation with the State concerned.

3. If, during any delivery period, a sugar-exporting ACP States fails to deliver its agreed 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 wit 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 a 11 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 rev dewes 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 m, 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

Declarations on Protocol 3 to the ACP-EEC Convention of Lome`

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 participation the provisions of that Protocol shall be examined (1).

2. Declaration by the Community concerning sugar originating in Belize, St-Kitts-Nevis-Anguilla and Suriname

(a) The Community undertakes to adopt the necessary measure to ensure the same treatment as provided for in Protocol No 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 19 the quantities shall be as follows:

Belize	14 800 metric tons
St-Kitts-Nevis-Anguilla	7 900 metric tons (2)

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 purpose of juridical security and does not represent for the Community any qualification or limitation of the principles enunciated Article I of that Protocol (3).

PROTOCOL 8

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, Import into the Community be admitted free of customs duties and charges having equivalent effect.

Article 2

Products referred to in Article I originating in the Member States shall, on import into the ACP States, be admitted accordance with the provisions of Part Three, Title I, Chapter I of the Convention.

Article 3

If the offers made by firms of the ACP States are likely to detrimental to the functioning of the common market and any such detriment is attributable 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 Second ACP-EEC Convention of Lome' 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 in of Denmark,

The President of the Federal Republic of Germany,

The President of the Hellenic Republic,

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,

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 a "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

Her Majesty the Queen of Antigua and Barbuda,

The Head of State of the Bahamas,

The Head of State Barbados,

Her Majesty the Queen of Belize,

The President of the People's Republic of Benin,

The President of the Re public of Botswana,

The President of the National Revolutionary Council, President of Burkina Faso, Head of the Government,

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 Ivory Coast,

The President of the Republic of Djibouti,

The Government of the Commonwealth of Dominica,

The General Secretary of the Ethiopian Workers' Party Chairman of the Provisional Military Administrative Council and of the Council of Ministers and Commander-in-Chief of the Revolutionary Army of Ethiopia,

Her Majesty the Queen of Fiji,

The President of the Galionise 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 Cooperative Republic of Guyana,

The Head of the 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 Military Government of Nigeria,
The President of the Republic of Uganda,
Her Majesty the Queen of Papua New Guinea,
The President of the Republic of Rwanda,
Her Majesty the Queen of St Christopher 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 Sao Tome and Principe,
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 Democratic Republic of the Sudan,
The President of the Republic of Suriname,
Her Majesty the Queen Regent 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 of the meeting at Lome, this eight day of December in the year on 1 thousand nine hundred and eighty-four for the purpose of signing the Third ACP-EEC Convention of Lome, have adopted the following texts:

the Third ACP-EEC Convention of Lome and the following Protocols :

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 bananas

Protocol 5 on rum

Protocol 6 on the tax and customs arrangements applicable in the ACP States to contracts financed by the Community

Protocol 7 containing the text of Protocol No 3 on ACP Sugar appearing in the ACP-EEC Convention of Lome signed on 28 February 1975 and the corresponding declarations annexed to that Protocol

Protocol 8 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 also adopted the texts of the Declarations listed below and annexed to this Final Act:

1. Joint declaration on Article 4 (Annex I)
2. Joint declaration on the location of the Technical Centre for Agricultural and Rural Co-operation (Annex II)
3. Joint declaration on Article 34 (Annex III)
4. Joint declaration on Article 46 (Annex IV)

5. Joint declaration on Article 73(3) (Annex V)
6. Joint declaration on Article 87 (Annex VI)
7. Joint declaration on co-operation between ACP States and neighbouring overseas countries and territories and French overseas departments (Annex VII)
8. Joint declaration on representation of regional groupings (Annex VIII)
9. Joint declaration on ACP migrant workers and ACP students in the Community (Annex IX)
10. Joint declaration on workers who are nationals of one of the Contracting Parties and are legally resident in the territory of a Member State or an ACP State (Annex X)
11. Joint declaration on definition of "Appropriate Technology" (Annex XI)
12. Joint declaration on the presentation of the Convention to GATT (Annex XII) 2
13. Joint declaration concerning agricultural products referred to in Article 130(2)(a)(ii) (Annex XIII)
14. 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 140(2) (Annex XIV)
15. Joint declaration on Articles 138 and 139 (Annex XV)
16. Joint declaration on products covered by the common agricultural policy (Annex XV I)
17. Joint declaration on Article 140 containing the text of the joint declaration by the Council of Ministers of 19 and 20 May 1983 on the implementation of Article 13 of the second ACP-EEC Convention signed at Lome on 31 October 1979 concerning safeguard measures (Annex VII)
18. Joint declaration on trade between the European Economic Community and Botswana, Lesotho and Swaziland (Annex XVIII)
19. Joint declaration on ACP-EEC consultations in the event of the establishment of a system for the stabilisation of export earnings at world level (Annex XIX)
20. Joint declaration on Article 150(1)(b) (Annex XX)
21. Joint declaration on Article 150(1)(c) (Annex XXI)
22. Joint declaration on Article 166 (Annex XXII)
23. Joint declaration on the management of SYSMIN (Annex XXIII)
24. Joint declaration on the use of SYSMIN funds (Annex XXIV)
25. Joint declaration on refugees and returnees (Annex XXV)
26. Joint declaration on Article 243(1) (Annex XXVI)
27. Joint declaration on special measures for the least-developed, landlocked and island ACP States in the event of natural disasters (Annex XXVII)

28. Joint declaration on Article 288 (Annex XXVIII)
29. Joint declaration on Protocol I (Annex XXIX)
30. Joint declaration on the origin of fishery products (Annex XXX)
31. Joint declaration on Article 2 of Protocol 2 (Annex XXXI)
32. Joint declaration on Protocol 5 (Annex XXXII)
33. Joint declaration on Protocol 5 (Annex XXXI11)
34. Joint declaration on Article I of Protocol 5 (Annex XXXIV)
35. Joint declaration on Article 4 of Protocol 5 (Annex XXXV).

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:

1. A. Declaration by the Community and the Member States on Articles 86, 87, 88, 90 and 91
- B. Declaration by the ACP States on the declaration by the Community and its Member States on Articles 86, 87, 88, 90 and 91 (Annex XXXVI)
2. A. Community declaration on Articles 194 and 195
- B. Declaration by the ACP States on the Community declaration on Articles 194 and 195 (Annex XXXVII)

The Plenipotentiaries of the ACP States have taken note of the declarations listed below and annexed to this Final Act:

1. Community declaration on trade liberalisation (Annex XXXVIII)
2. Community declaration on Article 96(3) (Annex XXXIX)
3. Community declaration on Article 136(2)(a) (Annex XL)
4. Community declaration on Article 139(3) (Annex XLI)
5. Community declaration on Articles 148 and 150(2) (Annex XLII)
6. Community declaration on Article 150(3) (Annex XLI11)
7. Community declaration on Article 194 (Annex XLIV)
8. Community declaration on Article 248 (Annex XLV)
9. Declaration by the representative of the Government of the Federal Republic of Germany concerning the definition of German nationals (Annex XLVI)
10. Declaration by the representative of the Government of the Federal Republic of Germany concerning the application to Berlin of the Convention (Annex XLVII)

11. Community declaration on Articles 30 and 31 of Protocol I (Annex X LVIII)
12. Community declaration relating to Protocol I on the extent of territorial waters (Annex XLIX)
13. Community declaration on protocol 2 (Annex L)
14. Community declaration relating to Protocol 2 on the operating expenses of the joint institutions (Annex LI)
15. Community declaration on protocol 3 (Annex LII)

The Plenipotentiaries of the Member States and of the Community have taken note of the Declarations listed below and annexed to this final Act:

1. Declaration of the ACP States on Article 130 (Annex LIII)
2. Declaration of the ACP States on the origin of fishery products (Annex LIV)

ANNEX I

Joint Declaration on Article 4

1. The Contracting Parties hereby reiterate their deep attachment to human dignity as an inalienable right and as constituting an essential objective for the attainment of the legitimate aspirations of individuals and of peoples. They reaffirm that every individual has the right, in his own country or in a host country, to respect for his dignity and protection by the law.
2. The Contracting Parties proclaim that ACP-EEC co-operation must help eliminate the obstacles preventing individuals and peoples from actually enjoying to the full their economic social and cultural rights and that this must be achieved through the development which is essential to their dignity, their well-being and their self-fulfilment.
3. In this respect the Contracting Parties reaffirm their obligation and their commitment under international law to fight for the elimination of all forms of discrimination based on ethnic group, origin, race, nationality, colour, sex, language, religion or any other situation. They 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 II

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 account of the infrastructure and working conditions 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 III

Joint declaration on Article 34

The ACP Group of States and the Community agree pursue their contacts regarding the supply of available agricultural products to individual ACP States as provided for in Article 34 of the Convention.

It is noted by both sides that the Community's offer, while not meeting in full the aspirations of the ACP States constitutes a recognition of the concern expressed by those.

The Committee of Ambassadors is entrusted with setting up an experts' working party to carry out a detailed study to access for the ACP States to available agricultural products in the light of the Community's offer. The Committee of Ambassadors is to present a report to the Council of Ministers as soon as possible and within one year at the latest.

ANNEX IV

Joint Declaration on Article 46

In view of the importance for the ACP States' prods stable production conditions and remunerative prices-- purposes of implementing effectively agricultural commodity policies and strategies established by those States and supported by the Community--the Contracting Parties a continue their reflection on the ways and means which the framework of ACP-EEC co-operation, would be likely better to meet this concern.

ANNEX V

Joint declaration on Article 73(3)

The Contracting Parties agree that the ACP Secretariat the General Secretariat of the Council of the European Communities shall attend the meetings of the Board

ANNEX VI

Joint declaration on Article 87

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 laying down rules for the ratification by Member States of the United Nations Convention on a Code of Conduct for Liner Conferences or the accession of these States to the Convention.

ANNEX VII

Joint declaration on co-operation between ACP States and 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 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 VIII

Joint declaration on representation of regional groupings

Arrangements should be made by the Council of Ministers so that regional groupings between ACP States may be represented, as observers, at sessions of the Council of Ministers and Committee of Ambassadors.

Requests for such arrangements shall be examined by the Council of Ministers on a case by case basis.

ANNEX IX

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. In this context the Member States and the ACP States will continue to ensure, through the legal or administrative measures adopted by them, that the foreign nationals within their territory are not subjected to discrimination on the basis of racial, religious, cultural or social differences.

2. The Community will develop its measures to support Member States' non-governmental organisations 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 of and in accordance with the procedures for financial and technical 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 could 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 119(3) 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 X

Joint declaration on workers who are nationals of one of the Contracting Parties and are legally resident in the 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 or 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 XI

Joint Declaration on 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 culture,
- does not impose a strain on scarce resources and
- is adjustable to the social and economic conditions.

ANNEX XII

Joint declaration on the presentation of the Convention to GATT

The Contracting Parties will consult when the provision the Convention that relate to trade are presented and examined under GATT.

ANNEX XIII

Joint declaration concerning agricultural products referred to in Article 130(2)(a)(ii)

The Contracting Parties have taken note that the Community intends to take the measures mentioned in the Annex, 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 130(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 fit good time that, wherever possible, they come into force at the same time as the interim arrangements which will be introduced after expiry of the Second ACP-EEC Convention of Lome.

ANNEX XIV

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 130(2)

The Contracting Parties reaffirm that Chapter I of Title I 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 market for products originating in the ACP States referred to in Article 130(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 department. Information and consultation procedures shall apply between the parties concerned in accordance with the provisions of Article 143.

ANNEX XV

Joint declaration on Articles 137 and 139

If special tariff treatment were to be applied by the ACP States to imports of products originating in the Community, the provisions of Protocol I 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 XVI

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 XVII

Joint declaration on Article 140 containing the text of the joint declaration by the Council of Ministers of 19 and 20 May 1983 on the implementation of Article 13 of the second ACP-EEC Convention signed at Lome on 31 October 1979 concerning safeguard measures

1. The Contracting Parties to the Lome Convention agree that every endeavour should be made to avoid recourse to the safeguard measures provided for under Article 12.
2. Both parties are guided by the conviction that the implementation of Article 13(4) and (5) would enable them to recognize, at an early stage, problems which could arise and, take account of all relevant factors, to 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 for implementation of the mechanism of advance information provided for under Article 13(4), the objective of which is to limit, in the case of sensitive products (*), the risks of sudden 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 13(4) of the second Lome 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 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 13(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. Paragraphs 1, 2 and 3 of Article 13 relating to safeguard measures have already been, insofar as the Community is concerned, the object of a Council implementing Regulation (Regulation (EEC) No 1470/80) following the request of the ACP States for the advance implementation of the provisions of the second Lome Convention relating to the safeguard clause. If the conditions of application of safeguard measures (Article 12) are fulfilled, it would be the responsibility of the Community, in accordance with Article 13(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 12 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 13(3) of the Convention. In this case all relevant information will be supplied promptly to the States.

8. In any case, the interests of the least-developed, landlocked and island ACP States will receive particular attention, in accordance with Article 15 of the Lome Convention.

9. The ACP States and the Community are convinced that the implementation of the provisions of the Lome Convention, as well as those of this declaration, 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.

ANNEX XVIII

Joint declaration on trade between the European Economic Community and Botswana, Lesotho Swaziland

Having regard to Part I(3) of Protocol 22 to the Act concerning the conditions of accession and the adjustments to the Treaties, the Community recognizes, and the Governments of Botswana, Lesotho and S 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 or 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 XIX

Joint declaration on ACP-EEC consultations in the event of the establishment of a system for the stabilisation of export earnings at world level

The Contracting Parties agree to concert action in the con text of the Convention in order to avoid any double compensation in the event of a world system for the stabilisation of export earnings being established during the period of application of the Convention.

ANNEX XX

Joint declaration on Article 150(1) (b)

The Contracting Parties agree that the decisions taken pursuant to Article 27 of the second ACP-EEC Convention it favour of coconuts and coconut oil as regards exports from Dominica and in favour of cowpeas (*Vigna unguiculata*) a regards exports from Niger shall continue to apply.

ANNEX XXI

Joint declaration on Article 150(1)(c)

The Contracting Parties agree that the decisions taken pursuant to Article 46(3) of the second ACP-EEC Convention of Lome shall continue to apply to the following ACP States: Burundi, Cape Verde, Comoros, Ethiopia, Guinea-Bissau, Lesotho, Rwanda, Seychelles, Solomon Islands, Swaziland, Tonga, Tuvalu, and Western Samoa.

ANNEX XXII

Joint declaration on Article 166

In order to improve the functioning of the Stabex system and enhance the exchange of information and statistics, the two Parties agree to convene, within six months of the signing of the Convention, a joint

panel of experts responsible, in the light of past experience and taking account of the adjustments made to the system under the Convention, for working out any proposal aimed at achieving the objectives referred to in Article 166. In its work the panel shall also pay particular attention to measures leading to the better acquisition of data on ACP States' exports to the Community, including re-exports from the Community. The Panel shall report within, vile month on its conclusions.

ANNEX XXIII

Joint declaration on the management of Sysmin

1. In order to improve the effectiveness of the special financing facility (SYSMIN) and hence its impact on development, the Community shall make available to the ACP States, rim later than six months from the entry into force of the Convention, a simplified information sheet to be submitted for the examination of the applications for aid and shall adopt management procedures and offer its assistance to:

- enable an ACP State facing the circumstances described in Articles 176 and 179 to present rapidly a request for aid containing all the essential information for such request to be examined;
- conduct the rapid examination in liaison with the ACP State, of the aid application referred to in Article 181 and appraise the projects and programmes financed by the special financing facility so as to enable the operations to be undertaken rapidly;
- co-ordinate the contributions from the special financing facility, wherever circumstances permit with any other resources liable to be deployed under the Convention in the mining sector

2. The Commission shall evaluate in co-operation with the ACP States, in the light of experience the administrative procedures for operating the scheme and to discuss any measures required to improve its effectiveness.

ANNEX XXIV

Joint declaration on the use of SYSMIN funds

The Contracting Parties agree that, in decisions to allocate funds provided for under Article 178 to projects or programmes, due consideration will be given to economic interests and social implications in the requesting ACP State and the Community, without prejudice to Article 179.

ANNEX XXV

Joint declaration on refugees and returnees

The Contracting Parties, conscious on the one hand of the forming magnitude and complexity of the situation of refugees and returnees in ACP States, heightened by the economic crisis, drought and the large number of people seeking refuge, and on the other hand of the resulting burden for and constraints imposed on the national economies and infrastructure of host countries, countries of origin and ACP States of resettlement recognize that this problem is of such a nature as to impede the pursuit and the attainment by the affected States. most of which are least-developed, of the objectives of the Convention.

2. In recognition of this situation, the Community, under Articles 203 and 205 of the Convention, undertakes to make available to the ACP States concerned resources complementary to those provided under the indicative programmes, both in the context of emergency aid in order to bring such immediate relief as is possible to the popular affected and in the context of longer-term measures.

ANNEX XXVI**Joint declaration on Article 243(1)**

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 the preceding paragraphs. The Contracting Parties confirm that retroactivity shall not apply as a general principle unless contracting States stipulate otherwise.

ANNEX XXVII**Joint declaration on special measures for the least-developed, landlocked and island ACP States in the event of natural disasters**

1. The least-developed, landlocked and island ACP States, most of which are especially vulnerable to natural disasters, such as cyclones, hurricanes and floods, shall receive special attention for the identification, planning and implementation of appropriate disaster mitigation, rehabilitation and reconstruction measures.
2. Priority shall be given to assistance with pre-disaster planning and precautions such as the establishment of adequate and renewable stocks of food, seedlings and seeds, medical supplies, building materials for rehabilitation and reconstruction as well as to support for the establishment of rapid and efficient emergency systems.

ANNEX XXVIII**Joint declaration on Article 288**

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 XXIX

Joint declaration on Protocol 1

1. For the purposes of applying Article 5(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 land-locked ACP States.
2. Products exported from ACP States which are warehoused elsewhere than in the ACP States or the countries and territories referred to in Explanatory Note 9 may be the subject of movement certificates issued under the circumstances referred to in Article 7(2).
3. For the purpose of Article 7(1) of the Protocol, certificates EUR. I 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 benefitting 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.

Furthermore, the Contracting Parties agree that a manual on the rules of origin shall be established for the use of the officials involved and of exporters; they also envisage supplementing the issue of this manual by information seminars.

ANNEX XXX

Joint declaration 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 above paragraph. Conscious of their respective concerns and interests, the ACP States and the Community agree to continue examining the problem posed by the entry, on to 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, in 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 products, 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 30 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 30(8) 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 30 of Protocol 1.

ANNEX XXXI

Joint declaration on Article 2 of Protocol 1

1. A fund administered by the body acting as secretariat' the Joint Assembly for the ACP side shall be set up by the ACP States under that body with the exclusive aim of contributing to the financing of expenditure incurred by ACP participants in meetings arranged by the Joint Assembly, to the exclusion of its general sessions. The ACP States shall make their contribution to the fund. For its part, the Community shall contribute an amount not exceeding one million ECU for the life of the Convention under Article 112 thereof (regional co-operation).

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 Article 25(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 Joint Assembly's rules of procedure.

3. Payment by the Community of each annual instalment, except the first, shall be subject to presentation by the body acting as secretariat for the ACP members of the Joint Assembly of a detailed statement of the use, in accordance with the conditions set out in paragraphs 1 and 2, to which earlier instalments have been put.

ANNEX XXXII

Joint declaration on Protocol 5

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).

ANNEX XXXIII

Joint declaration on Protocol 5

Should substantial modifications, other than a natural fall of rum consumption, take place on the

Community rum market following the enlargement of the EEC, 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.

ANNEX XXIV

Joint declaration on Article 1 Of Protocol 5

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.

ANNEX XXXV

Joint declaration on Article 4 of Protocol 5

The Contracting Parties note that the Community has agree' to the provisions of Article 4 on condition that:

- (a) any ACP State wishing to benefit from these provision shall include appropriate trade promotion projects for rum its national indicative programme ;
- (b) the Community s acceptance does not prejudice the legislation of Member States in matters of alcohol advertising.

ANNEX XXVI

A. Declaration by the Community and the Member States on Articles 86, 87, X8, 90 and 91

The Community and its Member States interpret the expression `Contracting Parties' as meaning on the one hand the Community and talc 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 86, 87, 88, 90 and 91

The above declaration by the Community shall not prejudice the provisions of Article I of the Convention concerning the definition of contracting parties.

ANNEX XXXVII

A. Community declaration on Articles 194 and 195

The Community declares that the amount of 8 500 million ECU of financial assistance referred to in Article 194 is offered on the condition that, firstly, it covers all the ACP States which have participated in the negotiations of the Convention whatever the date of their accession to that Convention and secondly, that it takes into account in advance the enlargement of the Community to include Portugal and Spain to the exclusion of any other country.

B. Declaration by the ACP States on the Community declaration on Articles 194 and 195

The ACP States accept the Community's offer and take due note of its declaration above.

ANNEX XXX VIII

Community declaration on trade liberalisation

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 trade advantages on the Community market are affected by measures relating to general trade liberalisation.

The Community declares its willingness, whenever ACP States bring to its attention any specific case to study jointly specific appropriate action with a view to safeguarding the interests of the latter.

ANNEX XXXIX

Community declaration on Article 96(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 least-developed ACP States, such expenses shall be paid direct, at the moment of travel and shipment, by the Commission delegate in the country concerned.

ANNEX XL

Community declaration on Article 136(2)(a)

While agreeing to the reproduction of the text of Article 9(2)(a) of the ACP-EEC Convention of Lome in Article 136(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 XLI

Community declaration on Article 139(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 type of products concerned, would least disturb the exports of the ACP States.

ANNEX XLII

Community declaration on Articles 148 and 150(2)

The Community hereby takes note of the request made by the ACP States during the negotiations concerning live bovine animals, sheep and goats.

It declares its readiness to examine this request in the framework of the provisions referred to in Article 150(2) as soon as substantial supporting documents are provided.

ANNEX XLIII

Community declaration on Article 150(3)

The Community has taken note of the derogation requests made during the negotiations under Article 150(3) by the following ACP States: Benin, Burkina Faso, Fiji, Guyana, Mali, Mauritius, Niger, Sao Tome and Principe, Sudan, Tanzania, Togo and Uganda.

On the basis of the Commission's report to the Council of Ministers, the Community undertakes to notify its position to the Council not later than six months after the signing of the

ANNEX XLIV

Community declaration on Article 19

The amounts indicated in Article 194 to cover all the financial resources placed at the disposal of the ACP States by the Community are expressed in ECU as defined by Council Regulation (EEC) No 3180/78 of 18 December 1978, as amended by Council Regulation (EEC) No 2626/84 of 15 September 1984, or, where appropriate, by a later Council regulation defining the composition of the ECU.

ANNEX XLV

Community declaration on Article 248

The Community confirms the declaration made during the negotiations concerning the ACP-EEC Convention of Lome signed on 28 February 1975 by which the Community consigned that the deletion of the phrase with due regard for Article 249, which the Community had asked to be inserted at the end of Article 248 during the negotiations, does not prejudice the legal relationship existing between Articles 248 and 249.

ANNEX XLVI

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 XLVII

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 XLVIII

Community declaration on Articles 30 and 31 of Protocol 1

The Community recognizes the special importance for the ACP States of implementing the measures for applying derogation decisions as swiftly as possible after their adoption.

It will introduce procedures which enable it to take such application measures in the shortest time possible

time, with a notably to being able to deal with emergency situations, and within the context of Article 31 of the Protocol.

ANNEX XLIX

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 twelve 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 L

Community declaration on Protocol 2

Having noted the request by the ACP States concerning 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 LI

Community declaration relating to Protocol 2 on the operating expenses of the joint institutions

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 LII

Community declaration on 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 (TCARC).

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 TCARC 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 Committee of ACP Ambassadors, in order to simplify implementation of Article 9 of that Protocol;

(3) agree to grant certain facilities to the staff of the ACP Secretariat, the CDI and the TCARC 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 TCARC and their staff.

ANNEX LIII

Declaration of the ACP States on Article 130

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 130(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 the 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 LIV

Declaration of the ACP States 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.