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DRAFT ARTICLES OF ASSOCIATION FOR A POSSIBLE ECONOMIC COMMUNITY OF WEST AFRICA^{1/}

Comments received from Governments

The Eighth Session of the Economic Commission for Africa in its resolution 176(VIII) called on countries of the West African Sub-region "to communicate by 15 March 1967 to the Executive Secretary their comments and approval of the Draft Articles of Association adopted at the Sub-regional meeting held at Niamey in October 1966."

Two countries of the Sub-region, Niger and Senegal, have submitted substantive comments. These comments are herewith submitted for the consideration of the Conference.

^{1/} The Draft Articles are reproduced in Annex VII of document E/CN.14/366.

ANNEX I

AMENDMENTS SUBMITTED BY THE GOVERNMENT OF THE REPUBLIC OF
NIGER TO THE DRAFT ARTICLES OF ASSOCIATION FOR A
POSSIBLE ECONOMIC COMMUNITY OF WEST AFRICA

Preamble

For the words "the Articles of Association as hereunder described," substitute "these Articles of Association." In paragraph 3 the verb in the French text should not be in the future, but in the present: constitue.

Article 1

- 1.(a) - Not its Member States, but the Member States.

Article 2

A new wording in French which does not in any way alter the English version.

- 2.(c) - No change in the English text.

- 2.(d) - No change in the English text.

3. - Delete "and ratified and for the provision of budgetary and other resources for their implementation."

Article 3

Add a paragraph 4.(ii) as follows:

"The community notes that within the sub-region the existing inter-governmental organizations for co-operation on a geographical basis have made a notable contribution to the attainment of its objectives and deems it necessary to co-operate effectively with them."

Paragraph 5. - Delete "belong to or."

Article 4

For "subsidiary organs and other bodies as may be required and provided for in the Treaty" substitute "such subsidiary organs and other bodies as may be required for the attainment of its objectives."

Article 5 might be worded as follows:

"The decisions, resolutions and recommendations adopted by the Interim Council shall apply to the Member States who vote for them. Decisions made at any meeting of the Interim Council at which some Member States are not present..." (the rest of the sentence remains unchanged).

Article 6 - Redraft paragraph 10 as follows:

"The Interim Council shall establish organic links with existing inter-governmental organizations for economic co-operation in the sub-region, whose activities are restricted to that geographical area. These links shall be secured by the participation, in an advisory capacity, of the representatives of the said organizations in the work of the Interim Council. The Interim Council may also establish such relations as it deems fit with any other African inter-governmental organization such as the African Development Bank, Lake and River Basin Development Organizations, etc. whose activities are in line with the objectives of the Community."

Paragraph 11 - For "any non-African donor countries" substitute "any non-African donor countries or organizations."

After "technically advanced countries" insert "or organizations for technical and financial assistance."

Paragraph 13 - Should begin as follows: "The Interim Council shall study the priority areas of..."

Paragraph 14 - might be worded as follows: "The Interim Council shall have power to establish a provisional secretariat, an interim economic committee and its subsidiary bodies."

Add another paragraph as follows:

"The Interim Council shall have power to conclude with the Executive Secretariat of the ECA a provisional arrangement determining the manner in which the ECA and especially its sub-regional office at Niamey shall co-operate on a technical basis with the secretariat of the Interim Council."

Paragraph 16 - might be worded as follows:

"16. These Articles of Association may be signed or adhered to by Member States of the West African sub-region, and shall come into force when signed or adhered to by a simple majority of the Member States."

A second paragraph: "In the event of a State becoming a member after the date when these Articles of Association come into force, their provisions shall apply as from the date when such State deposited its instrument of membership."

A third paragraph: "The original of these Articles of Association, the English and French texts of which are equally valid shall be deposited with the Executive Secretary of the United Nations Economic Commission for Africa who will forward certified true copies to all the Member States of the sub-region."

ANNEX II

AMENDMENTS SUBMITTED BY THE GOVERNMENT OF SENEGAL TO
THE DRAFT ARTICLES OF ASSOCIATION FOR A POSSIBLE
ECONOMIC COMMUNITY OF WEST AFRICA

1. Rectifying an omission

In Article I (a) there is an omission due presumably to a typing error. In the enumeration of the various fields in which the Community's activities are to be exercised, mention must be made of "energy" which does not appear in Article I, although it does in Article 2 (d) of the Articles of Association and in the Niamey recommendation No. 3 (October 1966).

The amended wording suggested for Article I restores the word "energy" which was omitted.

Article I (a) should now read as follows:

"1. The aims of the Community shall be:

"(a) to promote through the economic co-operation of its Member States a co-ordinated development of their economies, especially in industry, agriculture, transport and communications, trade and payments, manpower, energy and natural resources."

2. Possible representation for States unable to attend

Experience acquired over the past few years by Senegal from membership of multinational organizations tends to show:

- (1) that when the meeting is of a predominantly political nature all the participants attend;
- (2) that when it is purely technical, there are quite a few absentees.

Consequently, if the work of the Interim Council is to succeed, it seemed necessary to suggest that States which might be prevented from attending a meeting of the Interim Council of Ministers should be in a position to secure representation by a friendly State of their own choosing.

This would make it possible.

- (1) to secure the quorum laid down in Article 6 para. 12 of the Draft Articles of Association, of a simple majority of the Member States;
- (2) give a jolt to a somewhat nonchalant kind of abstention, by pledging absent States to vote through the State representing them.

The modified text would read as follows:

"Article 6: para. 12

"In the event of its inability to attend, a Member State may authorize another Member State to represent it; no State can represent more than one other State; a quorum for the meetings of the Interim Council shall be a simple majority of the Member States."

3. Determining the necessary majority for decisions of the Interim Council

The draft Articles of Association are silent on this point. And yet in Article 5, para. 7 there is provision:

- (1) on the one hand making it possible for decisions taken by the Interim Council to be subject to opposition only by the States which have pronounced in favour of them;
- (2) on the other hand that these very decisions are not binding on the Member States withholding their consent;

(3) finally, that these very decisions are binding on Member States which did not take part in the discussions only if they accept them upon subsequent notification.

Actually, this text requires the unanimity of all the States if a decision is to be valid throughout the sub-region. We know by experience gained from our own multinational organizations how difficult it is, if not impossible, to secure unanimity. Besides, the celebrated example of the Polish Diet might open our eyes to the inefficiency, even the futility and danger of institutions based on unanimity of assent.

However, I believe that the delegates who dealt with the terms of Article 5 displayed wisdom. It is actually possible to imagine that a given State which rejects a given project may support some other project likely to receive the combined support of other interested States. In other words, the sub-region is so vast, that it is quite easy to imagine 7 or 8 States intensely interested in given projects which may not necessarily be of interest to the 6 or 7 others.

For instance, it is quite conceivable that agreement might be reached on the establishment of an iron and steel works in a given State, with 5 or 6 States voting against it. On the other hand, these very 5 or 6 States backed by 2 or 3 others, might be interested in the setting-up of an industrial complex in a given State. The sub-region is large enough to accommodate both possibilities.

This throws a new light on the question of the necessary majority, and may be expressed as follows:

What is the necessary majority which will make a decision, resolution or recommendation duly binding on the States which have pronounced in favour of it?

As a matter of fact, bearing in mind the number of absentees at meetings of international organizations when these are not of a predominantly political character, it is important that a decision, resolution or recommendation should be subject to adoption and implementation only when it has received the approbation of a sufficiently large number of States, to make it worthwhile in the sub-regional sense.

Here is an example spelt out in figures.

Let us say that of the 14 States 12 were present (or represented) at a session of the Interim Council of Ministers. On a given project the votes were as follows:

in favour.....	5
against.....	4
abstentions.....	3

It cannot be affirmed that such a project is of interest sub-regionally, since 5 out of 12 States only supported it.

Take another project in which the votes were as follows:

in favour.....	7
against.....	3
abstentions.....	2

Here it may be said that the project is of interest sub-regionally.

The deduction to be made from the foregoing examples is that a given project submitted to the Interim Council will be valid only when it reveals a real interest sub-regionally, in other words, if it secures at least a simple majority of the States present or represented.

Consequently, the following amendment to Article 5 is suggested:

Article 5, para. 8

"Decisions, resolutions and recommendations of the Interim Council

shall be by a simple majority of the Member States present or represented;
they shall not be binding upon dissenting Member States and may be in-
operative if their application requires the participation of one or
several of such States."

(N.B. The passages underscored refer to the proposed amendments.)

4. Duties of the Interim Council of Ministers

Most of our West African States are grappling with ever-increasing economic or social difficulties, which impinge upon our public finances, making it necessary to follow a policy of strict austerity expressed in terms of severe budget restrictions.

And yet there is no end to the increase in social, economic and technical organizations the world over, which our States feel bound to belong to, because of the need for them to put an end to their own under-development and increase their technical know-how.

The setting-up of a West African economic unit is, I think, one of the ways of achieving this objective. But in working out such a community, our concern for economy should not be lost sight of. The expenditure incurred by our organization should be kept strictly within bounds consistent with its efficient operation.

It appears that the essential role of the Interim Council of Ministers is to initiate and carry through the studies leading up to the drafting of a Treaty of Association (Article 6, para. 15).

Apart from this main task, as soon as it has held its constituent meeting, the Interim Council will begin to set up the provisional bodies^{1/}

- ^{1/} Article 6 of the Draft Articles of Association, para. 14:
The Interim Council shall have power to establish:
-a secretariat
-an Interim Economic Committee
-the subsidiary bodies (of the said Economic Committee)

mentioned in Article 6, para. 14 which will be the embryo of the Community's definitive machinery (provided for in Article 4, para. 6).

Two of these bodies will be required at once:

- the secretariat
- the Interim Economic Committee

The staff of these two bodies, having regard to the geographical distribution (of population) in the sub-region, should be limited to the absolutely strict minimum necessary, and should be made up equally of French-speaking and English-speaking officers, highly qualified, active, competent and devoted to the cause of the sub-region.

Moreover, the Niamey Conference held in October 1966 requested the 14 States that might adhere to the treaty to embark upon the various studies likely to bring about the various special agreements (enumerated in Article 2, para. 2(d) of the draft Articles of Association), designed to enable them to achieve the objectives of the future community (referred to in Article I of the draft Articles of Association).

The third essential duty of the Interim Council thus appears to be:

- to take the count (during its first constituent session, that is immediately after the signing of the Articles of Association) of the initial studies carried out by the States since the Niamey Conference in October 1966;
 - from these preliminary sketches and right from the first session issue the necessary directives as regards the orientation of studies for possible co-operation in the various economic fields;
 - later, set up as the studies proceed, the specialized subsidiary organs which, while not appearing to be absolutely necessary at the outset, from a technical standpoint, might at a more advanced stage in the studies enable special agreements to be prepared.
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Bearing these considerations in mind, I think paragraph 14 of Article 6 should be modified as follows:

Article 6, para. 14

"The Interim Council shall have power to establish a secretariat and an Interim Committee.

"Pending the actual establishment of the Council of Ministers, the numerical strength of the staff of these two bodies shall be limited to the strict minimum necessary to ensure their operation.

"Should progress in the studies undertaken as part of Article 2 above, with a view to co-ordinating the economic activities of the States warrant it, the Interim Council may establish one or other of the subsidiary bodies which may appear to be absolutely necessary."

(N.B. Additions are underscored; in para. 1, the words "and its subsidiary bodies" have been deleted, the substance of this phrase being carried over to the third paragraph of the amendment.)