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NEGOTIATION OF A NEW CO-OPERATION AGREEMENT BETWEEN THE
 ACP COUNTRIES AND THE EUROPEAN ECONOMIC COMMUNITY



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Introduction

1. The Lomé Convention, which was signed on 28 February 1975 between ACP and EEC, came into force on 1 April 1976 for a period of five years. Since it was ratified, seven new African, Caribbean and Pacific States have joined the 46 original ACP countries parties to the Convention, bringing the number of partners to 62, of which nine are members of the European Economic Community and 53 ACP countries comprising 42 African States, six Caribbean States and five Pacific States (see annex).

2. It is provided that, 18 months before the date on which the Convention expires, namely 1 March 1970, the contracting parties shall enter into negotiations with in order to examine what provisions shall subsequently govern their relations.

3. These negotiations were officially opened at an ACP-EEC ministerial meeting held at Brussels on 24 July 1978.

4. The purpose of the present report is to take stock of the preliminary positions adopted by the various ACP and Community States for the purpose of negotiating a successor agreement to the Lomé Convention. To that end, it is appropriate firstly to review the results of the first two years of application of the Convention in the main areas of co-operation: industrial co-operation, financial and technical co-operation, trade co-operation and export earnings stabilization. Thereafter, comments will be made concerning the tentative proposals of the ACP States.

I. REVIEW OF THE IMPLEMENTATION OF THE LOME CONVENTION

A. Industrial co-operation

5. Under the provisions of the Convention, the Community and the ACP States agreed to adopt all appropriate measures to achieve effective industrial co-operation.

6. In reality, it appears that, although some foundation has been laid for such co-operation, the new type of industrial co-operation envisaged in the Convention has not really started. Indeed, it took many months to establish the organs provided for in the Convention, i.e., the Industrial Co-operation Committee and the Centre for Industrial Development.

7. At the end of one year of activity, it would appear from available information that the only contribution of the Centre for Industrial Development has been 24 projects relating to industrial units in all the ACP countries for a total investment of some 500 million European units of account.

8. All the evidence would indicate that the provisions relating to industrial co-operation have not had and are not likely to have any real impact on industrialization in the vast majority of the ACP countries in so far as they do not include specific measures covering in particular local processing of raw materials the transfer of technology and its adaptation to the specific circumstances and needs of the various countries. Almost 95 per cent of the industrial output of ACP is already admitted into the Community duty free under the most-favoured-nation clause or the generalized system of preferences. However the low level of the manufactured exports from ACP hardly allows those countries to derive any benefit from such facilities. Moreover, the very restrictive rules of origin with regard to value added right from the start limit the actual possibilities of industrial development in the ACP States in the framework of the Convention. Lastly, even in such fields as textile industries where consideration could be given to the possibility of exporting industrial products duty free in the framework of the Convention, the ACP countries come up against non-tariff barriers or requests for voluntary limitations of exports.

B. Financial and technical co-operation

9. Financial and technical co-operation is geared to the implementation of projects and action programmes which should contribute basically to the economic and social development of the ACP States. The Community has undertaken to devote the total sum of 3,390 million European units of account for the entire period covered by the Convention, of which 375 million will be for export earnings stabilization transfers.

10. At the end of December 1977, or after two financial years, Community aid, including transfers in the framework of STABEX, represented only 36 per cent of the total given above or nearly 446 million European units of account for the financial year 1976 and 775 million for the financial year 1977.

11. In addition to the inadequacy of the aid in both volume and quality terms, many delays due to administrative procedures have been encountered in the implementation of the projects. It should be added that the method whereby the total resources are determined for the entire period covered by the Convention seriously limits the financial assistance that the Community extends to achieve the objectives and priorities defined by the ACP States in their economic and social development plans and programmes. This method fails to take into account in particular the real cost of projects or action programmes and the effects of world inflation.

C. Trade co-operation

12. The aim of the Convention in trade co-operation is to promote trade among contracting parties, taking into account their respective levels of development. Provision is made for special account to be taken of the need to provide extra advantages for the trade of the ACP States with a view to accelerating the growth rate of their trade and improving the terms on which their products can gain access to the European Economic Community market, so as to ensure a better balance in the trade of the contracting parties.

13. However, a basic characteristic of trade trends is that the tendencies for imports from ACP States are the opposite of those for exports to those States.

14. Between 1974 and 1976, there was in fact a drop in the share of ACP countries in the imports of the Community from all the developing countries. From 17.1 per cent in 1974, this share fell to 15.8 per cent in 1975 and 15 per cent in 1976. In value terms, imports from the ACP States, which amounted to 10.5 billion European units of account in 1974, dropped to 8.7 billion in 1975 but went back to their 1974 level in 1976.

15. During the same period, on the other hand, the Community's exports to all the developing countries show a constant increase in terms of the share of imports going to ACP States, which rose from 17.2 per cent in 1974 to 18.3 per cent in 1975 and to 19.3 per cent in 1976. This trend reflects a rise in the value of exports from 6.1 million European units of account in 1974, to 9.8 billion in 1976, as against 8.1 billion in 1975.

16. It is thus quite clear that as far as co-operation in trade is concerned, tariff preferences have not had the effect of increasing the Community's imports from ACP States more quickly in order to check the drop in their share of the Community market. In fact, the extension of preferential treatment to other countries has had the effect of constantly eroding the tariff margins the ACP States enjoyed. ^{1/} On the other hand, the relative quantity of Community exports to ACP States has increased constantly, despite the fact that inverse preferences were abandoned.

D. Export earnings stabilization scheme

17. In order to cope with the disastrous effects of the instability of export earnings, the Lomé Convention introduced a system designed to ensure that the earnings from ACP exports to the Community were stabilized as far as certain products on which their economies were dependent and which were affected by price and/or quantity fluctuations were concerned.

18. Financial transfers in the financial year 1975 represented a total of 72.8 million European units of account as against the annual total of 75 million provided for in the Convention.

19. Transfers were effected to 18 countries and covered nine categories of products.

^{1/} See ECA, possible impact of the multinational trade negotiations on preferential trade between African countries and the European Economic Community (ECA/MTN/6), December 1976.

20. For the 1976 financial year, transfers came to 37.2 million European units of account, or a little more than half the level of the 1975 financial year. Thirteen ACP countries benefited and the number of commodities covered went up to 14.

21. The limited product coverage and the complex admission ceilings are some of the weaknesses that mark the export earnings stabilization scheme. In addition the mechanism does not provide for compensation for the effects of world inflation of fluctuations in the nominal value of export earnings.

22. It may moreover be asked whether some of the STABEX provisions do not in fact provide a supply guarantee in favour of the Community for its commodity imports. Apart from a few special cases, the only export earnings to which the system applies are those from ACP exports to the Community of products covered by the scheme. Moreover, a request for a financial transfer cannot be accepted if, on examination, it appears that the drop in earnings from exports to the Community of the commodities in question is the result of a trade policy adopted by the State concerned which has an adverse effect in particular on exports to the Community.

23. The two conditions described above seem to have the effect of urging ACP States to direct their exports markedly, if not almost exclusively, in some cases, towards the Community so as not to lose the advantages to be derived from the export earnings stabilization scheme.

II. PRELIMINARY POSITIONS REGARDING THE NEGOTIATION OF A NEW AGREEMENT

24. ACP States and the Community have each prepared documents on their preliminary positions concerning the negotiation of a successor agreement to the Lome Convention. ^{1/}

25. Moreover, at the ministerial meeting for the solemn opening of the negotiations in Brussels on 24 July 1978, two important statements were made, one by the President of the Council of the European Communities and the other by the President of the Council of ACP Ministers. These two declarations constitute a kind of summary of the respective positions the two parties have adopted tentatively.

1/ ACP States group:

- Draft memorandum on renegotiations [ACP/64/78 (Amb. Reneg) Rev. 4], Brussels 1 March 1978;
- Draft interim report on the negotiation of successor arrangement to the Lome Convention [ACP/335/78 (Secr. Reneg.) Rev. 4], Brussels, 15 July 1978.

European Community

- Draft terms of reference for negotiations of the European Commission adopted by the Ministers of Foreign Affairs at their meeting on 26 and 27 June 1978 in Luxembourg,
- Negotiation directives from the EEC Council.

A. Proposals by the Community

26. As far as the Community is concerned, the aim of the negotiations is not to alter the Lome Convention in substance or make innovations but to adapt and improve on certain points of detail. The Community accordingly considers that the new convention should represent a global agreement similar in its spirit and basic characteristics to the Lome Convention. The view of the Community is that the new negotiations should therefore, as a general rule, aim at consolidating the provisions of the present Convention by taking account of the experience derived from its application and developments on the international economic scene.

27. The Community nevertheless intends to reserve the possibility of proposing some amendments it deems necessary.

28. Among the guiding principles for the new convention, the Community wishes to propose the inclusion in the preamble of a precise explicit reference to the obligation for signatories to respect the most fundamental human rights.

29. The Community might moreover specify in a unilateral formal declaration annexed to the agreements that it reserves the right to condemn publically any violation of a principle or objective of the Convention.

30. With regard to industrial co-operation, the Community will insist on the need to include provisions for the encouragement and protection of European investments in ACP States. The grounds for this proposal are to be found in the following conclusion in the report of the Executive Committee to the EEC Council of Ministers on the need for Community action to encourage European investment in developing countries:

"The prevailing climate of uncertainty and insecurity concerning European investments in many developing countries is detrimental to economic development and improving the purchasing power of the developing countries. Because of this it cuts down the possibilities of exporting investments from the Community. This trend is likely to harm the economies of both the developing and the industrialized countries. Moreover, in mining, the drop in European investments in the developing countries in the long term constitutes a threat to the Community's supply of raw materials.

The search for solutions to this problem at the world level has so far been disappointing and there is no indication that this state of affairs will change in the near future.

In contrast with a purely national approach, which in most cases would appear too fragmentary, a common approach would make it possible to use the economic weight of the Community and the privileged relations it enjoys with many developing countries in arriving at realistic and balanced solutions." ^{1/}

^{1/} Translation of an excerpt from the report as it appears in "Afrique Service", No. 437, 9 February 1978.

31. The Community also feels that provision should be made for the present mechanism for consultations in industrial co-operation to apply also to the improvement and updating of informations available to the two parties on market trends and perspectives as well as productive capacity, consumption and export trends and perspectives.

32. The main proposal in financial co-operation relates to the need to bring the amount in EDF up to date to take account of inflation.

33. Concerning the trade regime, the general free access of products originating in ACP States into the Community would be maintained as well as the principle of non-reciprocity of concessions, but subject to the Convention being renewed for a period of five years. If the Convention is to remain in force longer, that provision might have to be reconsidered.

34. The Community considers that the virtually full opening of the European markets to products from ACP States should be accompanied by guarantees for the Community. In that regard the safeguard clause in the present Convention should be retained.

35. Moreover, the Community would propose that the new Convention should contain provisions on practices such as dumping and export subsidies.

36. It would also request that provision should be made for consultations to guarantee that the free access of ACP products to Community markets in sensitive sectors be maintained. These consultations, in which representatives of the relevant economic and social milieux would participate, would be intended to organize the orderly growth of trade in sensitive sectors (textiles and petroleum products, but the list could be extended to cover other sectors or products if necessary).

37. Lastly preferential access to the Community market would be linked to certain international standards concerning working conditions.

38. On the subject of the export earnings stabilization scheme, the Community has not yet adopted any clear stand on the problem of product coverage. The only change it is proposing concerns the use of the resources transferred under the scheme. Under the terms of the Convention, the beneficiary ACP State now decides how to use them. The Community would like to obtain an undertaking from the beneficiary countries that they would be used in the interest of the peoples concerned in the sector for which compensation was paid.

39. Although the Community has not yet made any specific suggestions concerning the duration of the agreement, it nevertheless considers that it would probably be best to make a distinction in the agreement between one part which would be of a permanent character and other provisions which would be subject to revision (particularly regarding financial assistance).

B. Proposals by the ACP States

40. In their statement, the ACP States first made a point of stressing that they could not accept the view of the Community that the new negotiations should be limited to nothing more than remodelling, adapting or adjusting the Lome

Convention. The ACP States indicated that they were determined to negotiate a new agreement which would represent an important step forward.

41. In terms of general principles, without in any way being opposed to the principle of fundamental human rights, the ACP States consider that it is out of the question to include provisions in a basically economic agreement that might be interpreted in such a way as to infringe on the right of sovereign States to conduct their internal affairs as they see fit.

42. Another general principle to which the ACP States attach great importance is that of their complete solidarity with all developing countries.

43. With regard to industrial co-operation, the ACP States feel that this is an area which requires a new focus, particularly in view of the need to establish dynamic co-operation links with the Community, the effects of which would be that the ACP States would no longer be limited to the role of mere suppliers of commodities. For this reason these countries propose to include in the new agreement provisions relating to the local transformation, processing and finishing of products using their own raw materials.

44. The ACP States also propose that a special fund should be created to administer the Centre for Industrial Development.

45. Concerning investment guarantees for the Community, the ACP States consider that any agreement which made provision for such guarantees would inevitably create great difficulties for them and would constitute a serious threat to their permanent sovereignty and their right to control and exploit their natural resources in accordance with their own objectives.

46. In the field of financial and technical assistance, the quantity and quality of Community assistance to ACP States could be enhanced. Special assistance should be accorded to the least developed countries, and, particularly in their case, account should also be taken of alleviating the debt burden.

47. Lastly, to ensure that the most suitable and satisfactory use is made of the resources provided under financial assistance from the Community, the ACP States propose that a system of joint management should be introduced.

48. In trad. co-operation, the ACP States in particular are asking for suitable guarantees to be included in the new convention to prevent any erosion of their preferential treatment. The existing safeguards should be re-examined with a view to preventing the introduction of non-tariff restrictions such as voluntary limits on exports.

49. The export earnings stabilization system should be extended to cover more commodities and the financial compensation should be increased.

50. In addition, the ACP States would like to extend co-operation to new fields and in particular they are proposing the creation of an agricultural fund and a centre for agricultural development, as well as a special fund for the exploration and exploitation of new sources of energy.

51. Lastly, concerning the duration of the new Convention, the ACP States think that the question cannot be settled at the present stage and that it should be considered in greater detail as the negotiations progress.

III. COMMENTS ON THE PRELIMINARY POSITION OF THE ACP STATES

52. The ACP States situate the question of co-operation with the Community in the broader framework of the new international political and economic situation before putting forward a number of improvements and changes in the present convention in the light of the new international economic order.

53. It is quite true that, by definition, all co-operation implies a certain interdependence in the mutual interests of the parties concerned. Yet as the draft memorandum reveals, it may well be wondered to what extent it really serves the interests of the ACP States to consider their relations with the Community as relations based on complementarity. Indeed it seems that, in view of the differences in endowment in factors and structures of production, which now characterize the economies of the two groups of countries, to speak of the relations between the ACP countries and the Community countries in terms of complementarity could mean that, if care is not taken, the ACP countries will continue to serve as sources of supply of raw materials for the countries of the Community and as outlets for the latter's manufactures. It should of course be added that to seek or maintain such a form of complementarity is hardly compatible with the need which has been expressed elsewhere for a new international division of labour.

54. In respect to the objectives of a new ACP/EEC multilateral model of co-operation, the draft memorandum seems to reflect the strong outward orientation which characterized socio-economic policies of African States until the beginning of discussions of the new international economic order. The belief was then firmly held that the internal socio-economic changes on which any kind of on-going development and economic process must be based could somehow be brought about mainly if not exclusively through trade with advanced countries. There was also the expectation that this trade could not only create self-sustaining processes but could also lead to increasing degrees of independence of these processes.

55. It should be noted that these two notions have been thoroughly reappraised at ECA. There is no doubt that socio-economic change must begin from within, as has been amply elaborated in the revised framework of principles for the implementation of a new international economic order in Africa which was adopted by the ECA Conference of Ministers at its thirteenth session. For this reason, external trade is the means by which member States seek to obtain those components of development and economic growth which are not internally available. It is important that in effect Governments and communities should have some clear idea of the total package of inputs (as well as conditions) essential for pursuing self-sustaining and relatively independent economic growth process and be able to identify those that are available within and those that have to be secured from outside.

56. Considering the draft memorandum one is inclined to think that it places perhaps too much emphasis on financial flows. This is an approach which is meaningful to advanced countries, somewhat less so to semi-developed countries but which definitely is not suited to the situation in most African countries unless accompanied by a set of appropriate measures at the national level. Economic growth is thought to be the outcome, broadly speaking, of the application of human capabilities to natural resources using technology which is partly embodied in capital goods and services to produce consumer durables and non-durables, capital goods, intermediate products for expanding markets, utilizing finance to facilitate the movement and application of these real resources.

57. In Africa increasing number of countries have suddenly been freed of the capital/foreign exchange constraint on development and economic growth through the discovery of oil, uranium or other minerals. Nothing more clearly demonstrates the limits of the finance-capital shortage approach to development and economic growth than the failure to utilize efficiently the subsequent flow of funds.

58. Similarly, the ACP countries can certainly demand that a certain share of the expanding market should be reserved for them through a system of special preferences.

59. However, the reduction or removal in advanced countries of tariff and other obstacles to exports of processed agricultural products from ACP countries does not automatically confer on those countries the capability of taking advantage of such tariff concessions, and this capability may require longer to build up than the duration of the tariff concessions.

60. In other words, international trade can only be one instrument among others, and not necessarily the most important one, in the economic development process for securing the necessary changes in the structures of the national economy and achieving an optimum growth rate.

61. In view of the foregoing, doubts may be voiced about the rationality and effectiveness of a co-operation policy based solely or primarily on the development of purely trade or financial relations.

62. As far as negotiating strategy is concerned it is believed that ACP member States should approach the negotiations with a fairly exact knowledge of the cards they hold, of the strengths and weaknesses of their own position and of what they will not yield an inch on, what they are prepared to debate on a give-and-take basis and what they will not fight too hard about. They must be fairly, if not equally, familiar with the cards of the party opposite, of their strengths and weaknesses and their counter-classification of priorities. A great deal of basic detailed background preparatory work would thus be necessary.

63. It will be noted in this regard that the traditional analyses of co-operation with the Community readily talk of the advantages that the ACP States derive from their co-operation but they do not strive to assess the benefits that also accrue to the Community. No mention is made of the fact that the European Development Fund for example has a fall-out effect on the economies of the States members of the Community which is far from being negligible. Approximate estimates indicate that in the last three financial exercises of EDF, the financial returns to the Community were in the order of 71 per cent, 85 per cent and 83 per cent respectively.

64. Moreover, statements have been made recently by a number of prominent officials from developed countries themselves on the dependence of the latter on the Third World. This dependence should be quantitatively and qualitatively evaluated as a background to the negotiations. For example the United States and OECD made detailed projections of the long-term needs of minerals from the Third World which ought to have figured as a background evaluation of negotiations cards. Recent discoveries of oil in Africa are bound to affect such negotiations. Equally the emerging character of East/West trade and its potential impact on ACP trade with the Community will also be of importance in the negotiations.

65. Concerning the duration of the new convention, the feeling is that the drawbacks which the ACP countries and the African ones in particular would expose themselves to with the adoption of the formula whereby the duration of the convention would be unlimited, whatever its form, as is now being suggested, would be far greater than any possible advantages. Although it is not necessary at this stage to undertake a detailed comparison of the advantages and drawbacks, whereas for reasons of programming it might be possible to accept that the new convention would remain in force for one or two years more than the present Convention and the earlier ones, it is felt that it could be dangerous for the African States to agree to tie their hands for a more or less indefinite period for sooner or later they might not be able to cope with what might be important changes in international economic relations.

CONCLUSION

66. The results of the first two years of application of the Lome Convention have revealed the many weaknesses of the over-all system apart from the few advantages that have been obtained.

67. A successor agreement to the present Convention should have as its basic objective the creation of a new framework for relations with the Community in the spirit of the new international economic order. Such an agreement, to be effective, must enable the African countries to achieve their own economic and social development objectives and priorities in accordance with the principles of self-sustaining development and collective self-reliance and thereby excluding any link which might create excessive dependence on the outside world. This means in particular that the new kind of relations with the Community should take into account the need for the African countries to pursue a development policy based on a trade and production model geared towards the satisfaction of basic needs as they are expressed at the national, subregional and regional levels.

ANNEX

LIST OF STATES IN AUGUST 1977

Africa

- | | |
|---------------------------|------------------------------------|
| 1. Benin | 24. Mauritania |
| 2. Botswana | 25. Mauritius |
| 3. Burundi | 26. Niger |
| 4. Cap Verde | 27. Nigeria |
| 5. Central African Empire | 28. Rwanda |
| 6. Chad | 29. Sao Tome and Principe |
| 7. Comoros | 30. Senegal |
| 8. Congo | 31. Seychelles |
| 9. Djibouti | 32. Sierra Leone |
| 10. Equatorial Guinea | 33. Somalia |
| 11. Ethiopia | 34. Sudan |
| 12. Gabon | 35. Swaziland |
| 13. Gambia | 36. Togo |
| 14. Ghana | 37. Uganda |
| 15. Guinea | 38. Upper Volta |
| 16. Guinea Bissau | 39. United Republic of
Cameroon |
| 17. Ivory Coast | 40. United Republic of
Tanzania |
| 18. Kenya | 41. Zaire |
| 19. Lesotho | 42. Zambia |
| 20. Liberia | |
| 21. Madagascar | |
| 22. Malawi | |
| 23. Mali | |

Caribbean

1. Bahamas
2. Barbados
3. Grenada
4. Guyana
5. Jamaica
6. Trinidad and Tobago
7. Surinam

Pacific

1. Fiji
2. Papua New Guinea
3. Western Samoa
4. Tonga
