

RELATIONS BETWEEN THE EUROPEAN ECONOMIC COMMUNITY AND THE ASSOCIATED  
OVERSEAS COUNTRIES AND TERRITORIES (OCT)

(Commission Communication to the Council)

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Presentation of the document

The subject of this Commission Communication to the Council is the renewal of the Association of the Overseas Countries and Territories with the European Economic Community, which expired on 31 January 1975 and was extended on that date for a first transitional phase until 1 July 1975.

The Communication is based on the principles referred to in Article 136 of the EEC Treaty and maintains, as in the past, a certain parallelism between the future arrangements for the Overseas Countries and Territories and the new ACP-EEC Lomé Convention signed on 28 February 1975. Accordingly, the Communication does not involve any fundamentally new positions with regard to substance. It comprises the following:

Explanatory Memorandum;

Recommendation for a Council Regulation on the Association of the Associated Countries and Territories with the European Economic Community;

Draft agreement on trade with the OCT in products within the province of the ECSC.

## I.

EXPLANATORY MEMORANDUM

The Council Decision of 29 September 1970 on the Association of the Overseas Countries and Territories with the European Economic Community expired on 31 January 1975. In its Decision of 28 January 1975 the Council adopted transitional measures covering the period to 1 July 1975.

Since the Council is required to establish the provisions governing relations between the Community and the OCT for a further period, the Commission presents herewith a recommendation for a regulation to that end<sup>1</sup> (see Annex I). A draft Agreement concerning ECSC products is also attached hereto (Annex II).

In its recommendation the Commission has taken care to base itself on the principles referred to in Article 136 of the EEC Treaty and to maintain, as in the past, certain parallels between the future OCT arrangements and the new ACP-EEC Lomé Convention.

The Commission considers it all the more necessary to maintain parallels between the ACP and OCT arrangements since certain OCT whose independence is foreseeable in the near future will be eligible for accession to the Lomé Convention. Moreover, the OCT should not be treated less favourably than the ACP States. The following points should be noted in the light of the foregoing:

1. The Commission has endeavoured to adapt the trade arrangements under the Lomé Convention to certain provisions of Part IV of the Treaty of Rome.

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<sup>1</sup>For reasons of certainty in the law (direct applicability of tariff measures) the Commission considers it desirable that the Council instrument take the form of a regulation.

## II.

The Commission has taken account in particular of certain problems arising in the field of trade arrangements for the OCT which belong to regional groupings such as CARICOM. Although the general guideline must remain the extension to the other Member States and to the other OCT of the arrangements applied by any OCT in respect of the Member State with which it has special relations, the Commission is aware of the potential political difficulties. In this respect the Commission considers that a possible solution lies in admitting, under the measures specified in Article 133(3), the possibility of derogation resulting from the membership of certain OCT of customs unions with other developing countries.

On the other hand, the Commission was conscious of the fact that Part IV of the EEC Treaty, unlike the Lomé Convention, defines not only the relations between the OCT and the Member States but also the relations between the various OCT: on the basis of the "negative reciprocity" clause, which has existed until now in respect of establishment, the Commission proposes that the OCT which apply preferential arrangements should not be obliged to extend them to those OCT which for their part do not apply preferential arrangements. The result would be that if an OCT does not accord reciprocity it cannot expect to enjoy it from other OCT.

With regard to agricultural products, in the case of both the OCT and the ACP, the regulations to be adopted by the Community must be based on Article 43 of the EEC Treaty. In the case of sugar, the recommendation takes account of the Declaration by the Community concerning the ACP Sugar Protocol (see Annex XXI of the EEC-ACP Convention) and the Council Decision of 24 February 1975 on the transitional measures concerning cane sugar from the OCT.

It will be noted that the instrument on the definition of the concept of originating products and on administrative cooperation is still being drawn up and will be transmitted at a later date. It will be modelled, mutatis mutandis, on Protocol No 1 of the ACP-EEC Lomé Convention.

2. With regard to industrial cooperation, the Commission does not consider that there is any need to include in the regulation concerning the OCT a Title corresponding to the Industrial Cooperation Title of the Lomé Convention, since industrial financing -- in the broad sense of the term -- is in any case already possible on the basis of the provisions for financial and technical cooperation. The new provisions, however, concerning industrial promotion -- industrial information, contacts between firms, transfer of

## III.

technology etc. - which are to be implemented principally by means of the specific promotional structures of the new Convention (Industrial Cooperation Committee, Industrial Development Centre), are an integral part of the Lomé Convention and must be considered as relating exclusively to the ACP.

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The Commission recommends that the Council approve the text of the regulation at an early date in order that it may serve as a basis for the interim arrangements to be established between the Community and the OCT from 1 July 1975, since these arrangements should be made known, insofar as they concern trade, to the customs administrations in the Member States by not later than 15 May.

Although the opinion of the European Parliament is not specifically required by Article 136 of the EEC Treaty - the legal basis of the Regulation to be adopted by the Council - the Commission considers that the Parliament should be consulted as in the case of the earlier decisions in this connection in 1964 and 1970.

ANNEX I

RECOMMENDATION

Regulation (EEC) No \_\_\_\_\_ of the Council of \_\_\_\_\_ 1975

on the Association of the Overseas Countries and Territories with the European Economic Community

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community and in particular Article 136 thereof;

Having regard to the Internal Agreement relating to the Financing and Administration of Community Aid signed at ..... on ..... 1975;

Having regard to the recommendation from the Commission;

Having regard to the Opinion of the European Parliament;

Whereas the provisions applicable to the Association of the Overseas Countries and Territories with the European Economic Community (hereinafter called 'Countries and Territories') must be laid down for a further period,

HAS ADOPTED THIS REGULATION:

Article 1

This Regulation aims to promote the economic and social development of the Countries and Territories listed in Annex No 1 by increasing their trade and through financial measures and technical cooperation.

The Community also intends to develop the economic relations between the Community and the Overseas Countries and Territories and thereby to contribute to strengthening the structure of their economies.

TITLE I

TRADE COOPERATION

Chapter 1

Trade arrangements

Article 2

1. Subject to the provisions of paragraph 2 of this Article, products originating in the Countries and Territories shall be imported into the Community free of customs duties and charges having equivalent effect, but the treatment applied to these products may not be more favourable than that applied by the Member States among themselves.

For the purposes of the preceding subparagraph in respect of the treatment applied by the Member States among themselves, account shall not be taken of the customs duties and charges having equivalent effect applied pursuant to Articles 32, 36 and 59 of the Act concerning the Conditions of Accession and the Adjustments to the Treaties.

2. (a) Products originating in the Countries and Territories:

- listed in Annex II to the Treaty when they come under a common organization of the market within the meaning of Article 40 of the Treaty; or
- subject, on importation 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 arrangements applied in respect of third countries, in accordance with the following provisions:

- (i) those products shall be imported free of customs duties for which Community provisions in force at the time of importation do not provide, apart from customs duties, for the application of any other measure relating to their importation;

(ii) for products other than those referred to under (i), the Community shall take the necessary measures to ensure, as a general rule, more favourable treatment than the general treatment applicable to the same products originating in third countries to which the most-favoured-nation clause applies.

(b) These arrangements shall enter into force at the same time as this Regulation and shall remain applicable for its duration.

If, however, during the application of this Regulation the Community,

- subjects one or more products to common organization of the market or to specific rules introduced as a result of the implementation of the common agricultural policy, it reserves the right to adapt the import treatment for these products originating in the Countries and Territories. In such cases, paragraph 2(a) shall be applicable;
- modifies the common organization of the market in a particular product or the specific rules introduced as a result of the implementation of the common agricultural policy, it reserves the right to modify the arrangements laid down for products originating in the Countries and Territories. In such cases, the Community shall ensure that products originating in the Countries and Territories continue to enjoy an advantage comparable to that previously enjoyed in relation to products originating in third countries benefiting from the most-favoured-nation clause.

### Article 3

1. The Community shall not apply to imports of products originating in the Overseas Countries and Territories any quantitative restrictions or measures having equivalent effect other than those which the Member States apply among themselves.

2. Paragraph 1, however, shall not prejudice the import treatment applied to the products referred to in the first indent of Article 1(2)(a).

3. This Article shall not prejudice the treatment that the Community applies to certain products in implementation of world commodity agreements to which the Community is signatory.

#### Article 4

1. Subject to the provisions of paragraph 2, imports of products originating in the Community and in other Countries and Territories shall be admitted into each country or territory free of custom duties and charges having equivalent effect.

2. The authorities of a Country or Territory may, however, retain or introduce customs duties and charges having equivalent effect required to meet the development needs of the Country or Territory or intended to contribute to its budget.

3. The "development needs" of a Country or Territory means those arising from:

- (i) the implementation of economic development programmes;
- (ii) regional economic cooperation agreements, particularly those establishing or aimed at establishing customs unions or free trade areas between one or more Countries and Territories and one or more third countries in the same geographical area and at a comparable stage of development;
- (iii) the need to balance its payments;
- (iv) the need to achieve an increase in its export earnings.

#### Article 5

1. Subject to paragraph 2 of this Article, the authorities of the Countries and Territories shall not apply any quantitative restrictions or measures having equivalent effect to imports of products originating in the Community or in other Countries or Territories.

2. The authorities of the Countries and Territories may, however, retain or introduce quantitative restrictions or measures having equivalent effect in order to meet their development needs as defined in Article 4(3) or in the event of difficulties arising in their balance of payments.

#### Article 6

Articles 3 and 5 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security: the protection of health and life of humans, animals and plants; the protection of national treasures possessing artistic, historic or archaeological value or the protection of industrial and commercial property.

Such prohibitions or restrictions shall not, however, constitute a means of arbitrary discrimination or a disguised restriction on trade.

#### Article 7

1. The trade arrangements applied by the Countries or Territories shall not give rise to any discrimination between Member States, Countries or Territories.

2. In order to further regional cooperation the provisions of the preceding paragraph shall not preclude a Country or Territory from granting certain other Countries or Territories more favourable treatment than that accorded to the Community.

3. If, however, Countries or Territories apply the provisions of Articles 4 or 5 by retaining or introducing, fully or partially, customs duties and charges having equivalent effect, or quantitative restrictions and measures having equivalent effect, the other Countries and Territories may abstain totally or partially from extending to such Countries or Territories the treatment they apply in respect of the Community. At the request of a Member State or the Commission consultations shall be held in the Council on the application of these provisions.

#### Article 8

1. The French Republic, the Kingdom of the Netherlands and the United Kingdom shall communicate to the Commission within a period of three months following the entry into force of this Regulation the customs tariffs of the Countries and Territories with which they have special relations.

Any customs duties and charges having equivalent effect which are still applicable to products originating in the Community and in the other Countries and Territories shall be specified in this communication.

The Member States concerned shall also communicate to the Commission any subsequent modifications of the customs tariffs of the Countries and Territories as and when they are made.

2. The Commission shall communicate to the Member States the customs tariffs of the Countries and Territories, and any subsequent amendments thereof, and, where appropriate, shall inform the Council of its observations on them.

3. At the request of a Member State or of the Commission consultations shall be held within the Council on the tariffs or amendments thereof.

#### Article 9

1. The French Republic, the Kingdom of the Netherlands and the United Kingdom shall communicate to the Commission, within a period of three months following the entry into force of this Regulation, the lists of quantitative restrictions and measures having equivalent effect retained by the Countries and Territories with which they have special relations.

The Member States concerned shall also communicate to the Commission any subsequent modifications of such measures.

2. The Commission shall communicate to the Member States the lists referred to in paragraph 1, and any subsequent amendments thereto, and, where appropriate, shall inform the Council of its observations on them.

3. At the request of a Member State or of the Commission consultations shall be held within the Council on the quantitative restrictions and measures having equivalent effect applied by the Countries and Territories.

#### Article 10

1. For the purposes of implementing this Chapter, the concept of 'originating products', and the methods of administrative cooperation relating thereto, are laid down in Annex No 2<sup>1</sup> to this Regulation.

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<sup>1</sup>This annex is being drawn up and will be transmitted separately.

2. The Council, acting unanimously on a recommendation from the Commission, may adopt any amendment to the Annex referred to in paragraph 1.

3. If for any product the concept of "originating products" has not been defined pursuant to paragraphs 1 or 2, the Community and the authorities of the Countries and Territories shall continue to apply their own rules.

#### Article 11

1. With regard to commercial policy the French Republic, the Kingdom of the Netherlands and the United Kingdom shall, each for its part, inform the Commission of any measures taken regarding trade between the Countries and Territories and third countries. The Commission shall inform the other Member States.

2. At the request of a Member State or of the Commission, consultations shall be held in the Council if such measures might be prejudicial to the interests of one or more Member States or of the Community.

#### Article 12

1. If, as a result of applying the provisions of this Chapter, serious disturbances occur in a sector of the economy of the Community or of one or more of its Member States, or jeopardize their external financial stability, or if difficulties arise which may result in a deterioration in a sector of the economy of a region of the Community, the Commission may take, or may authorize the Member State concerned to take, the necessary safeguard measures in accordance with the procedure specified in Annex No 3.

2. If, as a result of applying the provisions of this Chapter, serious disturbances occur or are liable to occur in a sector of the economy of a Country or Territory, or jeopardize its external financial stability, the authorities of the Country or Territory concerned may take the necessary safeguard measures.

Such measures and the rules for their application shall be notified without delay to the Commission by the French Republic, the Kingdom of the Netherlands and the United Kingdom, each for its part.

The Commission shall inform the other Member States. At the request of a Member State or of the Commission there shall be consultations on the measures within the Council.

3. In the application of paragraphs 1 and 2, preference shall be given to such measures as will least disturb the functioning of the Association and the Community. The scope of these measures must not exceed what is strictly necessary to remedy the difficulties that have arisen.

Chapter 2

Trade promotion

Article 13

The Community shall carry out trade promotion activities which will be aimed at helping the Countries and Territories to participate under the most favourable conditions in the Community, regional and international markets.

Article 14

The trade promotion activities provided for in Article 13 shall include:

- (a) improving the structure and working methods of organizations, departments or firms contributing to the development of the foreign trade of the Countries and Territories, or setting up such organizations, departments or firms;
- (b) basic training or advanced vocational training of staff in foreign trade and trade promotion;
- (c) participation by the Countries and Territories in fairs, exhibitions, specialized international shows and the organization of trade events;
- (d) improving cooperation between economic operators in the Member States and the Countries and Territories and establishing links to promote such cooperation;
- (e) carrying out and making use of market research and marketing studies;
- (f) producing and distributing trade information in various forms within the Community and the Countries and Territories with a view to developing trade.

Article 15

Applications for financing of trade promotion activities shall be presented to the Community under the conditions laid down in Title III.

Article 16

The Community shall participate, under the conditions laid down in Title III and in Annex No 5, in financing trade promotion activities for promoting the development of exports of the Countries and Territories.

TITLE II

EXPORT EARNINGS FROM COMMODITIES

Chapter 1

Stabilization of export earnings

Article 17

With the aim of remedying the harmful effects of the instability of export earnings and of thereby enabling the Countries and Territories to achieve the stability, profitability and sustained growth of their economies, the Community shall implement a system for guaranteeing the stabilization of earnings from exports by the Countries and Territories to the Community of certain products on which their economies are dependent and which are affected by fluctuations in price and/or quantity.

Article 18

1. Export earnings to which the stabilization system applies shall be those accruing from the exportation by the Countries and Territories to the Community of the products on the following list:

- (a) Groundnut products
  - (aa) groundnuts, shelled or not
  - (ab) groundnut oil
  - (ac) groundnut oilcake
- (b) Cocoa products
  - (ba) cocoa beans
  - (bb) cocoa paste
  - (bc) cocoa butter
- (c) Coffee products
  - (ca) raw or roasted coffee
  - (cb) extracts, essences or concentrates of coffee

- (d) Cotton products
  - (da) cotton, not carded or combed
  - (db) cotton linters
- (e) Coconut products
  - (ea) coconuts
  - (eb) copra
  - (ec) coconut oil
  - (ed) coconut oilcake
- (f) Palm, palm nut and kernel products
  - (fa) palm oil
  - (fb) palm nut and kernel oil
  - (fc) palm nut and kernel oilcake
  - (fd) palm nuts and kernels
- (g) Raw hides, skins and leather
  - (ga) raw hides and skins
  - (gb) bovine cattle leather
  - (gc) sheep and lamb skin leather
  - (gd) goat and kid skin leather
- (h) Wood products
  - (ha) wood in the rough
  - (hb) wood roughly squared or half-squared, but not further manufactured
  - (hc) wood sawn lengthwise, but not further prepared
- (i) Fresh bananas
- (k) Tea
- (l) Raw sisal
- (m) Iron ore
  - Iron ores and concentrates and roasted iron pyrites

The statistics used for implementation of the system shall be those obtained by cross-checking the statistics of the Countries and Territories and of the Community, account being taken of the fob values.

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

- (a) released for home use in the Community;
- (b) brought under the inward processing arrangements there in order to be processed.

2. The system shall apply to the export earnings of a Country or Territory from the products listed above if, during the year preceding the year of application, earnings from the export of the product or products to all destinations represented at least 7.5% of its total earnings from merchandise exports.

3. Nonetheless if, not sooner than 12 months following the entry into force of this Regulation, one or more products not contained in this list, but upon which the economies of one or more Countries and Territories depend to a considerable extent, are affected by sharp fluctuations, the Council may decide whether the product or products should be included in the list, without prejudice to Article 19(1).

#### Article 19

1. For the purposes specified in Article 17 and for the duration of this Regulation, the Community shall allocate for the stabilization of the export earnings of the Countries and Territories a total amount of 25 million units of account to cover all measures taken by it under the said system.

2. This total amount shall be divided into five equal annual instalments. Every year except the last, the Council may authorize, where required, the use in advance of a maximum of 20% of the following year's instalment.

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

4. On the basis of a report submitted to it by the Commission, the Council may reduce the amount of the transfers to be made under the stabilization system.

5. Before the expiry of this Regulation, the Council shall decide on the possible use to which any balance remaining from the total amount referred to in paragraph 1 is to be put and also on the terms to be laid down for the further use of amounts still to be paid by the Countries and Territories under Article 22, after the expiry of this Regulation.

#### Article 20

1. In order to implement the stabilization system a reference level shall be calculated for each Country or Territory and for each product.

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

2. The relevant authority of a Country or Territory shall be entitled to request a financial transfer if, on the basis of the results of a calendar year, the actual earnings of the Country or Territory concerned, as defined in Article 18, from each of the products considered individually, are at least 7.5% below the reference level.

3. The request from the relevant authority of a Country or Territory shall be addressed to the Commission, which shall examine it in the light of the volume of resources available.

The difference between the reference level and actual earnings shall constitute the basis of the transfer.

4. However, should examination of the total exports of the Country or Territory show a significant change, consultations shall take place between the Commission and the relevant authority to determine whether such changes are likely to have an effect on the amount of the transfers, and if so to what extent.

5. The Commission shall, in conjunction with the relevant authority of the Country or Territory concerned, draw up a draft decision to make a transfer.

Article 21

The relevant authority of the recipient Country or Territory shall decide how the resources will be used. It shall inform the Commission annually of the use to which it has put the resources transferred.

Article 22

1. The amounts transferred shall not bear interest.
2. The authorities of the Countries and Territories which have received transfers shall contribute, in the five years following the allocation of each transfer, towards the reconstitution of the resources made available for the system by the Community where the Commission finds that the trend of their export earnings so permits.
3. To this effect, the Commission shall determine, for each Country or Territory, for each year and for each product, and on the conditions specified in Article 18(1), whether  
the unit value of the exports is higher than the reference unit value;  
the quantity actually exported to the Community is at least equal to the reference quantity.

If the two conditions are met at the same time, the relevant authority of the recipient Country or Territory shall pay back into the system, within the limit of the transfers it has received, an amount equal to the reference quantity multiplied by the difference between the reference unit value and the actual unit value.

Article 23

For each transfer a "transfer agreement" shall be drawn up and concluded between the Commission and the relevant authority of the Country or Territory concerned.

Article 24

1. In order to ensure that the stabilization system functions efficiently and rapidly, statistical and customs cooperation shall be instituted between the Community and the authorities of the Countries and Territories. The detailed arrangements for such cooperation shall be established by the Council.

2. The authorities of the Countries and Territories and the Commission shall adopt any practical measures facilitating the exchange of necessary information and the submission of requests for transfers, for example by producing a form for requesting transfers.

Chapter 2

Specific provisions concerning sugar

Article 25

1. The European Economic Community shall purchase and import, at guaranteed prices, specific quantities of cane sugar, raw or white, originating in the Countries and Territories and delivered to it by the Countries and Territories.

2. Annex No 4 to this Regulation determines the conditions of implementation of this Article.

TITLE III

FINANCIAL AND TECHNICAL COOPERATION

Article 26

1. The purpose of financial and technical cooperation is to correct the structural imbalances in the various sectors of the economies of the Countries and Territories. The cooperation shall relate to the execution of projects and programmes which contribute essentially to the economic and social development of the said Countries and Territories.
2. Such development shall consist in particular in the greater well-being of the population, improvement of the economic situation of the Countries and Territories, local authorities and firms, and the introduction of structures and factors whereby such improvement can be continued and extended by their own means.
3. This cooperation shall complement the efforts of the authorities of the Countries and Territories and shall be adapted to the characteristics of each of the said Countries and Territories.

Article 27

1. The Commission shall submit to the Council each year a report on the management of Community financial and technical aid. This report shall be drawn up in collaboration with the European Investment Bank (hereinafter called the "Bank") for the parts of the report which concern it. It shall in particular show the position as to the commitment, implementation and utilization of the aid, broken down by type of financing and by recipient Country or Territory.

2. On the basis of the information submitted by the Commission, the Council shall define the policy and guidelines of financial and technical cooperation and shall formulate resolutions on the measures to be taken by the Community and the Countries and Territories in order to ensure that the objectives of such cooperation are attained.

Article 28<sup>1</sup>

For the duration of this Regulation, the overall amount of the Community's aid shall be 160 million units of account.

This amount comprises:

1. 150 million units of account from the European Development Fund (hereinafter called the "Fund"), allocated as follows:

(A) for the purposes set out in Article 26, 125 million units of account, consisting of:

75 million units of account in the form of grants;

45 million units of account in the form of special loans;

5 million units of account in the form of risk capital;

(b) for the purposes set out in Title II, up to 25 million units of account, likewise from the Fund, in the form of transfers for the stabilization of export earnings.

2. For the purposes set out in Article 26, up to 10 million units of account in the form of loans from the Bank, made from its own resources on the terms and conditions provided for in its Statute, and supplemented, as a general rule, by a 3% interest rate subsidy, under the conditions laid down in Article 3 of Annex No 5.

The total cost of the interest rate subsidies shall be charged against the amounts of aid provided for in 1(a) above.

3. The breakdown by zone of the amounts shown in paragraph 1(a) shall be decided by the Council acting unanimously before the entry into force of this Regulation.

4. Upon the expiry of this Regulation, any monies provided for under the third indent of paragraph 1(a) in the form of risk capital but not committed shall be added to those provided for in the form of special loans under the second indent of the same provision.

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<sup>1</sup> See Interpretative Declaration by the Council on the unit of account, page 21.

Article 29

1. The method or methods of financing which may be contemplated for each project or programme shall be selected jointly by the Community and the relevant authority or authorities of the Countries and Territories with a view to the best possible use being made of the resources available and by reference to the level of development and the economic and financial situation of the Country or Territory or of the Countries or Territories concerned. Moreover, account shall be taken of the factors which ensure the servicing of repayable aid.

The definitive choice of methods of financing for projects and programmes shall be made only at an appropriate stage in the appraisal of such projects and programmes.

2. Account shall also be taken of the nature of the project or programme, of its prospects of economic and financial profitability and of its economic and social impact.

In particular, productive capital projects in the industrial, tourism and mining sectors shall be given priority financing by means of loans from the Bank and risk capital.

Interpretative Declaration by the Council on the unit of account referred to in Article 28 of the Regulation

The amount of the Community's aid will be the equivalent, in a European unit of account to be defined, of 160 million SDRs at their value on 28 June 1974. This provision shall not prejudice the decision which the Council will have to take on the question of whether special drawing rights or a basket of currencies of the Member States of the Community should be used to determine the composition of the European unit of account applicable under this Regulation.

The Council's Decision mentioned above should be taken as soon as possible and before the entry into force of this Regulation at the latest.

Article 30

1. Where appropriate, a number of methods may be combined for financing a project or programme.
  
2. With the agreement of the authorities of the Countries or Territories concerned, financial aid from the Community may take the form of co-financing with participation by, in particular, credit and development agencies and institutions, firms, Member States of the Community, Countries and Territories, third countries or international finance organizations.

Article 31

1. Grants and special loans may be made available to or through the Country or Territory concerned.
2. Where these funds are on-lent through the Country or Territory concerned, the terms and procedure for the onlending by the intermediate recipient to the final borrower shall be laid down between the Community and the relevant authority of the Country or Territory concerned in an intermediate financing agreement.
3. Any benefits accruing to the intermediate recipient, either because that recipient receives a grant or a loan for which the interest rate or the repayment period is more favourable than that of the final loan, shall be employed by the intermediate recipient for the purposes and on the terms set out in the intermediate financing agreement.

Article 32

1. The financing of projects and programmes comprises the means required for their execution, such as:

Capital projects in the fields of rural development, industrialization, energy, mining, tourism, and economic and social infrastructure;

schemes to improve the structure of agricultural production;

technical cooperation schemes, in particular in the fields of training and technological adaptation or innovation;

industrial information and promotion schemes;

marketing and sales promotion schemes;

specific schemes to help small and medium-sized national firms;

microprojects for grassroots development, in particular in rural areas.

2. Financial and technical cooperation shall not cover current administrative, maintenance and operating expenses.

3. Financial aid may cover import costs and local expenditure required for the execution of projects and programmes.

Article 33

In the implementation of financial and technical cooperation, the Community shall provide assistance for attaining the objectives which the Countries and Territories set themselves in the context of regional cooperation.

Article 34

In the implementation of financial and technical cooperation, special attention shall be paid to the needs of the least developed Countries and Territories so as to reduce the specific obstacles which impede their development and prevent them from taking full advantage of the opportunities offered by financial and technical cooperation.

Article 35

1. The following shall be eligible for financial and technical cooperation:
  - (a) the Countries and Territories;
  - (b) the regional or interstate bodies to which the Countries and Territories belong and which are authorized by the authorities of the said Countries and Territories.
  
2. Subject to the agreement of the relevant authority of the Country or Territory or of the Countries or Territories concerned, the following shall also be eligible for such cooperation in respect of projects or programmes approved by the latter:
  - (a) local authorities and public or semi-public development agencies of the Countries and Territories, in particular their development banks;
  - (b) private bodies working in the Countries and Territories concerned for the economic and social development of the population of those Countries and Territories;
  - (c) firms carrying out their activities in accordance with industrial and business management methods and meeting the criteria laid down in Article 47;
  - (d) groups of producers of the Countries and Territories or like bodies, and, where no such groups or bodies exist, the producers themselves;
  - (e) for training purposes, scholarship holders and trainees.

Article 36

There shall be close cooperation between the Community and the authorities of the Countries and Territories in implementing aid measures financed by the former.

Article 37

1. Community aid, which is complementary to the efforts of the Countries and Territories, shall be integrated in the economic and social development plans and programmes of the said Countries and Territories so that projects undertaken with the financial support of the Community dovetail with the objectives and priorities set by those Countries and Territories.

2. To this end the relevant authorities of the Countries and Territories shall inform the Commission, as far as possible upon the entry into force of this Regulation, of their development plans and programmes and of the schemes for which they intend to request financial assistance.

The authorities in question shall notify the Commission of any subsequent changes in their development plans and programmes.

Article 38

1. Preparation of the projects and programmes shall be the responsibility of the Countries and Territories concerned or of other beneficiaries approved by them. The Community may, where the authorities of those Countries and Territories so request, provide technical assistance for drawing up the dossiers of projects or programmes.

2. For each project or programme in respect of which financing is requested, a dossier shall be presented to the Community either by the authorities of the Country or Territory concerned in agreement with the local authorities or the representatives of the population of that Country or Territory or by the firm concerned, with the agreement of those authorities, as the case may be.

However, the Community may, if necessary, prepare technical cooperation projects and programmes for a Country or Territory. It shall first obtain the agreement of the authorities of the latter on the main lines of such projects or programmes.

Article 39

1. The Community shall appraise the financing requests which are submitted to it. It shall maintain the necessary contacts with the authorities of the Countries and Territories in order to be able to act with full knowledge of the facts on the projects and programmes submitted to it and help promote the balanced and harmonious development of the various Countries and Territories.

The Country or Territory or group of Countries and Territories concerned shall be notified of the outcome of its requests.

2. The aim of appraisal of the projects and programmes is:

- (a) to ensure that the projects and programmes stem from economic or social development plans or programmes of the Countries and Territories;
- (b) to assess, as far as possible by means of an economic evaluation, the effectiveness of each project or programme by setting the effects it is expected to produce against the resources to be invested in it. In each project the expected effects shall be the practical expression of a number of specific development objectives of the Country or Territory or of the Countries or Territories concerned.

On this basis, appraisal shall ensure that, as far as possible, the measures selected constitute the most effective and profitable method of attaining these objectives, taking into account the various constraints on each Country or Territory;

- (c) to verify that the conditions guaranteeing the successful conclusion and the viability of the projects or programmes are met, which involves:
  - verifying that the projects as conceived are suitable for bringing about the effects sought and that the means to be used are commensurate with the circumstances and resources of the Country or Territory or region concerned;

- and, furthermore, guaranteeing that the staff and other means, particularly financial, necessary for operating and maintaining the investments and for covering incidental project costs are actually available. Particular attention shall be paid here to the possibility of the project being managed by local personnel.

Article 40

The Countries and Territories, or the other beneficiaries authorized by them, shall be responsible for the execution of projects financed by the Community.

Accordingly, they shall be responsible for negotiating and concluding works and supply contracts and technical cooperation contracts.

Article 41.

1. As regards operations financed by the Community, participation in tendering procedures and other procedures for the award of contracts shall be open on equal terms to all natural and legal persons of the Member States and of the Countries and Territories.

2. Paragraph 1 shall be without prejudice to measures intended to assist construction firms or manufacturing firms of the Country or Territory concerned, or of another Country or Territory, to take part in the execution of works contracts or supply contracts.

3. Paragraph 1 does not mean that the funds paid over by the Community must be used exclusively for the purchase of goods or for the remuneration of services in the Member States and in the Countries and Territories.

Any participation by certain third countries in contracts financed by the Community must, however, be of an exceptional nature and be authorized case by case by the competent body of the Community, account being taken in particular of a desire to avoid excessive increases in the cost of projects attributable either to the distances involved and transport difficulties or to the delivery dates.

Participation by third countries may also be authorized where the Community participates in the financing of regional cooperation schemes involving third countries and in the joint financing of projects with other providers of funds.

Article 42

1. The effects and results of completed projects, and the physical state of the work carried out, shall be evaluated regularly and jointly by the competent departments of the Community and of the Countries and Territories concerned in order to ensure that the objectives set are attained under the best conditions.

Evaluations may also be made of projects in progress where this is warranted by their nature, importance or difficulty of execution.

2. The competent institutions of the Community and of the Countries and Territories concerned shall, each for their respective parts, take the measures which evaluation shows to be necessary.

Article 43

1. The management and maintenance of work carried out within the context of financial and technical cooperation shall be the responsibility of the Countries and Territories or other beneficiaries.

2. Exceptionally, and by way of derogation from Article 32(2), in particular under the circumstances specified in Article 7 of Annex No 5, supplementary aid may be provided temporarily and on a diminishing scale in order to ensure that full use is made of investments which are of special importance for the economic and social development of the Country or Territory concerned and the running of which temporarily constitutes a truly excessive burden for the Country or Territory or other beneficiaries.

Article 44

1. The fiscal and customs arrangements applicable in the Countries and Territories to contracts financed by the Community shall be adopted by a decision of the Council, acting unanimously on a proposal from the Commission.

2. Pending implementation of the decision referred to in paragraph 1, the fiscal and customs arrangements applicable to contracts financed by the Community shall be those arising from:

- for the Countries and Territories having special relations with France and the Netherlands, the Council Decision of 18 October 1971 amending the Decision of 29 September 1970 on the Association of the Overseas Countries and Territories with the European Economic Community;
- for the other Countries and Territories, the most favourable treatment they apply in respect of contracts financed by other international organizations.

Article 45

The provisions of this Title and of Annex No 5 to this Regulation apply also to the French Overseas Departments.

TITLE IV

PROVISIONS RELATING TO ESTABLISHMENT,  
SERVICES, PAYMENTS AND CAPITAL MOVEMENTS

Chapter 1

Provisions relating to establishment and services

Article 46

As regards the arrangements that may be applied in matters of establishment and provision of services, the authorities of the Countries and Territories shall treat nationals and companies or firms of Member States on a non-discriminatory basis.

If, however, a Member State is unable, in respect of a given activity, to grant similar advantages to nationals, companies or firms of the French Republic, the Kingdom of the Netherlands or the United Kingdom of Great Britain and Northern Ireland, as the case may be, or to companies or firms subject to the laws of the Country or Territory concerned and established therein, the relevant authority of that Country or Territory shall not be required to observe the obligation set out in the preceding paragraph.

Article 47

For the purposes of this Regulation "companies or firms" means companies or firms constituted under civil or commercial law, including cooperative societies and other legal persons governed by public or private law, save for those which are non-profit-making.

For the purposes of the first paragraph of Article 46, "companies or firms of Member States" means companies or firms formed in accordance with the law of a Member State and whose registered office, central administration or principal place of business is in a Member State; however, a company or firm having only its registered office in a Member State must, in order to set up agencies, branches or subsidiaries therein, be engaged in an activity which has an effective and continuous link with the economy of that Member State.

For the purposes of the second paragraph of Article 46, "companies or firms of the French Republic, the Kingdom of the Netherlands or the United Kingdom of Great Britain and Northern Ireland" established in a Country or Territory means companies or firms formed in accordance with French, Dutch or United Kingdom law, as the case may be, and whose registered office, central administration or principal place of business is in that Country or Territory; however, a company or firm having only its registered office in a Country or Territory must, in order to set up agencies, branches or subsidiaries therein, be engaged in an activity which has an effective and continuous link with the economy of that Country or Territory.

For the purposes of the second paragraph of Article 46, "companies or firms subject to the laws of the Country or Territory concerned and established therein" means companies or firms formed under the law of a given Country or Territory and whose registered office, central administration or principal place of business is in that Country or Territory; however, a company or firm having only its registered office in that Country or Territory must, in order to set up agencies, branches or subsidiaries therein, be engaged in an activity which has an effective and continuous link with the economy of that Country or Territory.

## Chapter 2

### Current payments and capital movements

#### Article 48

With regard to capital movements linked with investments and to current payments, the authorities of the Countries and Territories and the Member States shall refrain from taking action in the field of foreign exchange transactions which would be incompatible with their obligations under this Regulation resulting from the provisions relating to trade in goods, to services and establishment. These obligations shall not, however, prevent the implementation of the necessary protective measures, should this be justified by reasons relating to serious economic difficulties or severe balance of payments problems.

Article 49

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

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

Joint declaration by the Member States

The text of Article 49 of Chapter 2 of Title IV is without prejudice to the provisions of Article 50 of that Chapter.

Article 50

Throughout the duration of the loans and risk capital operations provided for in Article 28 of this Regulation, the authorities of each of the Countries and Territories shall be required:

- to place at the disposal of the beneficiaries referred to in Article 35 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;
- to make available to the Bank the foreign exchange 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 firms.

Title V

GENERAL AND FINAL PROVISIONS

Article 51

This Regulation shall enter into force at the same time as the EEC-ACP Lomé Convention of 28 February 1975.

Article 52

This Regulation shall expire on 1 March 1980.

Article 53

The Countries and Territories to which this Regulation shall apply are listed in the Annex No 1.

Article 54

If a Country or Territory accedes to independence the Council, acting unanimously, shall decide on any necessary adjustments to this Regulation, in particular to the amounts specified in Article 28.

Article 55

Before the date of expiry of this Regulation the Council, acting unanimously, shall adopt provisions for the application of the principles laid down in Articles 131 to 135 of the Treaty.

Article 56

The date of entry into force of this Regulation shall be published in the Official Journal of the European Communities.

This Regulation shall be binding in its entirety and directly applicable in all Member States.

Done at Brussels,

1975.

For the Council,

The President

Annex No 1 (to the Regulation)

List of the Countries and Territories referred to by this Council  
Regulation

1. NETHERLANDS

Surinam,

The Netherlands Antilles

(Aruba, Bonaire, Curaçao and St Maarten, Saba, St Eustatius).

2. FRANCE

Saint Pierre and Miquelon,

The Comoro Archipelago,

The Territory of the Afars and Issas,

New Caledonia and Dependencies,

Wallis and Futuna Islands,

French Polynesia,

French Southern and Antarctic Territories.

3. UNITED KINGDOM

Belize,

Bermuda,

Brunei,

Associated States in the Carribean: Antigua, Dominica, St Lucia,

St Vincent, St Kitts-Nevis-

Anguilla,

Cayman Islands,

Falkland Islands and Dependencies,

Gilbert and Ellice Islands,

Central and Southern Line Islands,

British Solomon Islands,

Turks and Caicos Islands,  
British Virgin Islands,  
Montserrat,  
Pitcairn,  
St Helena and Dependencies,  
The Seychelles,  
British Antarctic Territory,  
British Indian Ocean Territory.

4. Anglo-French Condominium of the New Hebrides.

Annex No 2 (to the Regulation)

concerning the definition of the concept of "originating products"  
and methods of administrative cooperation

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This annex is being prepared and will be transmitted separately.

Annex No 3 (to the Regulation)

On the application of Article 12 of Title I

Article 1

1. At the request of a Member State or on its own initiative the Commission may decide to apply to products originating in the Countries and Territories the safeguard measures which the European Economic Community may take pursuant to Article 12 of the Regulation, in particular a temporary, total or partial suspension of the tariff and other measures provided for by the Regulation for the benefit of the Countries and Territories.

If the Commission has received a request from a Member State it shall decide thereon within three working days following receipt of the request.

The safeguard measures shall be notified to the Member States and shall be applicable immediately.

2. Any Member State may refer the measure taken by the Commission to the Council within ten working days following the date of its notification. The Council shall meet forthwith. It may, by a qualified majority, amend or revoke the measure in question.

Article 2

1. Without prejudice to the application of Article 1, the Commission may, in order to enable a Member State to face up to the disturbances or difficulties referred to in Article 12 of the Regulation, authorize that Member State to take safeguard measures.

If the Commission has received a request from that Member State it shall decide thereon within three working days following receipt of the request.

The Commission decision shall be notified to all Member States.

2. Any Member State may refer the Commission decision to the Council within ten working days from the date of its notification. The Council shall meet forthwith. It may, by a qualified majority, amend or revoke the decision taken by the Commission.

3. For the purposes of applying this Article, priority shall be given to such measures as will least disturb the functioning of the common market.

Article 3

1. Articles 1 and 2 shall not affect application of the safeguard clauses provided for by the Treaty, in particular in Articles 108 and 109, in accordance with the procedures specified therein.

2. This Regulation shall not preclude full application of the regulations on the common organization of the agricultural markets. Article 2 shall not be applicable to products covered by those regulations.

Annex No 4 (to the Regulation)

on imports of cane sugar originating in the Overseas Countries and Territories

Article 1

1. The European Economic Community shall purchase and import, at guaranteed prices, specific quantities of cane sugar, raw or white, which originate in the Countries and Territories and which the said Countries and Territories deliver to it.
2. The safeguard clause in Article 12 of the Regulation shall not apply.

Article 2

Quantities of cane sugar referred to in Article 1, expressed in metric tons of white sugar, hereinafter referred to as "specified quantities", for delivery in each twelve-month period referred to in Article 3 will be as follows:

|                         |                    |
|-------------------------|--------------------|
| Belize                  | 39 400             |
| St Kitts-Nevis-Anquilla | 14 800             |
| Surinam                 | ..... <sup>1</sup> |

Article 3

In each twelve-month period from 1 July to 30 June inclusive, hereinafter referred to as the "delivery period", the sugar-exporting OCT shall deliver the quantities referred to in Article 2, subject always to any adjustments resulting from the application of Article 6.

Article 4

1. White or raw cane sugar shall be marketed on the Community market at prices freely negotiated between buyers and sellers.
2. The Community will not intervene if and when a Member State allows selling prices within its borders to exceed the Community's threshold price.

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<sup>1</sup>This quantity remains to be notified.

3. The Community shall purchase, at the guaranteed price, quantities of white or raw sugar, within the specified 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. It shall be fixed annually in respect of standard quality sugar as defined by Community rules, within the price range obtaining in the Community, taking into account all relevant economic factors, at the latest by 1 May immediately preceding the delivery period to which it will apply.

#### Article 5

Purchase at the guaranteed price, referred to in Article 4(3), shall be assured through the medium of the intervention agencies or of other agents appointed by the Community.

#### Article 6

1. If, during any delivery period, a sugar-exporting Country or Territory fails to deliver its specified quantity in full for reasons of force majeure the Commission shall, at the request of the Member State of the Community with which the Country or Territory in question has special relations, allow the necessary additional period for delivery.

2. If the relevant authority of a sugar-exporting Country or Territory informs the Commission during the course of a delivery period that it will be unable to deliver its specified quantity in full and that it does not wish to have the additional period referred to in paragraph 1, the shortfall will be reallocated by the Commission for delivery during the delivery period in question.

3. If, during any delivery period, a sugar-exporting Country or Territory fails to deliver its specified quantity in full for reasons other than force majeure, that quantity will 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 reallocated among the other Countries and Territories referred to in Article 2.

Annex No 5 (to the Regulation)  
on financial and technical cooperation

Chapter 1

Methods of financing

Article 1

1. Special loans shall serve to finance all or part of projects or programmes of general interest to the economic and social development of the Country or Territory or Countries or Territories in which they are to be undertaken.

2. As a general rule, these loans shall be made for a duration of 40 years, with a grace period of 10 years. They shall bear interest at the rate of 1% per year<sup>1</sup>.

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<sup>1</sup>Declaration by the Council:

"The financial terms specified in this article are the most favourable on which the special loans may be granted. They shall be of general application in the least developed Countries and Territories."

Article 2

1. ~~In order to assist the execution of industrial, mining and tourism projects of general interest to the economy of the Country or Territory or Countries or Territories concerned, the Community may grant assistance in the form of risk capital in order to step up the own resources, or, resources assimilated thereto, of those Countries' or Territories' firms, where appropriate by the acquisition of holdings in the authorized capital of those firms and, more generally, by means of quasi-capital aid.~~
2. Holdings acquired by the Community in the capital of firms or institutions for financing the development of the Countries or Territories shall be in the nature of temporary minority holdings. Such operations may be undertaken jointly with a loan from the Bank or with another form of risk capital assistance. As soon as appropriate they shall be transferred, preferably to natural or legal persons of the Countries or Territories.
3. Quasi-capital assistance may take the form of:
  - subordinated loans, which shall be redeemed and in respect of which interest, if any, shall be paid only after the other bank claims have been settled on market terms;
  - conditional loans, which shall be serviced and in respect of which redemption shall be due only after fulfilment of conditions laid down when the loan is made by particular reference to the conditions in which the project is being set up. These conditions shall indicate that the project has overcome the particular risks to which it was exposed and has achieved a certain level of profitability.

The terms of such aid shall be determined on a case-by-case basis by reference to the characteristics of the projects financed; the interest rate may not be greater than that of subsidized loans from the Bank<sup>1</sup>.

4. Quasi-capital assistance shall as a general rule be accorded to industrial, mining and tourism firms and to development financing institutions where the characteristics of their activities and management so permit. It may also be accorded to the Countries or Territories in order to enable them to acquire a holding in the capital of industrial, mining and tourism firms where such an operation comes under the financing of new productive investments and is supplemented by another financial intervention by the Community.

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<sup>1</sup>Declaration by the Council

"Quasi-capital assistance may be accorded either in addition to a loan from the Bank or by itself where, in accordance with the criteria specified in Title IV, Article 29 of the Regulation, such a loan cannot be considered."

Article 3

1. Scrutiny by the Bank of the eligibility of projects, and the according of loans from its own resources, shall be effected in accordance with the rules, conditions and procedures provided for in the Bank's Statute, consideration being given to the economic and financial situation of the Country or Territory or Countries or Territories concerned and to the factors which guarantee the servicing of repayable aid.

2. The duration of loans made by the Bank from its own resources shall be governed by terms stipulated on the basis of the economic and financial characteristics of the project; this period may not exceed 25 years.

3. The rate of interest shall be the rate charged by the Bank at the time of the signature of each loan contract. This rate shall generally be reduced by 3% by means of an interest rate subsidy. The interest rate subsidy shall, however, be automatically adjusted so that the interest rate actually borne by the borrower will be neither less than 5% nor more than 3%. The interest rate subsidy shall not be applied where the loans are intended for investments in the oil sector or in the mining sector, or where they are situated in Countries or Territories or concern sectors which will be defined by the Council.

4. The aggregate amount of interest rate subsidies, calculated in terms of its value at the time of the signature of the loan contract at a rate and according to rules to be laid down by agreement between the Commission and the Bank, shall be charged against the amount of grant aid specified in Article 28(1) of Title III of the Regulation and shall be paid directly to the Bank.

Chapter 2

Technical Cooperation

Article 4

1. The technical cooperation referred to in Article 32 of Title III of the Regulation may be either linked with investments or of a general nature.
2. Technical cooperation linked with investments comprises:
  - (a) planning and special and regional development studies;
  - (b) technical, economic and commercial studies, and research and surveys required to prepare projects;
  - (c) aid in the preparation of dossiers;
  - (d) aid in the execution and supervision of work;
  - (e) temporary aid for the establishment, launching and operation of a specific investment or of installations, including where necessary the training of personnel for the operation and maintenance of the investment or installations;
  - (f) meeting the cost of technicians temporarily and providing goods necessary to the proper execution of an investment project.
3. General technical cooperation comprises:
  - (a) the grant of scholarships for studies, training courses and postal tuition to provide, preferably in the Countries and Territories, for the vocational training and further training of natural persons thereof;

- (b) the organization of specific training programmes in the Countries and Territories, in particular for the staff of public services and institutions of the Countries and Territories or of undertakings therein;
- (c) at the request of their relevant authorities, the provision of experts, advisers, technicians and instructors of the Member States or the Countries and Territories for specific missions for limited periods;
- (d) the supply of instructional, experimental and demonstration equipment;
- (e) the organization of short training courses for natural persons of the Countries and Territories and further training courses for civil servants of those Countries and Territories;
- (f) sectoral studies;
- (g) studies of the prospects and opportunities for economic development and diversification in the Countries and Territories, and of problems of interest to groups of Countries and Territories or to the Countries and Territories as a whole;
- (h) general information and documentation to promote the economic and social development of the Countries and Territories, the development of trade between the Community and those Countries and Territories, and the achievement of the aims of financial and technical cooperation.

Chapter 3

Regional Cooperation

Article 5

1. Within the meaning of the Regulation, regional cooperation shall apply to relations either between two or more Countries or Territories or between one or more Countries or Territories on the one hand and one or more neighbouring developing countries on the other.

2. Within the meaning of the Regulation, regional projects are those which help directly to solve a development problem common to two or more Countries or Territories through joint schemes or coordinated national schemes.

Article 6

The Country or Territory or group of Countries or Territories participating with neighbouring developing countries in a regional project may request the Community to finance that part of the project for which it is responsible<sup>1</sup>.

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<sup>1</sup>Declaration by the Council:

The expression "neighbouring developing countries" does not necessarily mean countries having a common border.

Chapter 4Special measures in favour of the least developed Countries and TerritoriesArticle 7

Community aid accorded to the least developed Countries or Territories shall be combined with particularly favourable terms of financing, having regard to the economic situation specific to each of them.

Generally, such financing shall be in the form of subsidies and, in appropriate cases, in the form of special loans or risk capital. However, loans from the Bank's own resources may be accorded in the Countries or Territories concerned, having regard to the criteria defined in Article 29 of Title III of the Regulation.

Article 8

1. At the request of the authorities of the least developed Countries or Territories the Community shall give special attention to the application of the following aid measures:

- (a) technical assistance necessary for identifying, preparing and carrying out their projects;
- (b) training schemes for management and other staff required for the economic development services and technical departments of those Countries or Territories. Such training must be closely linked to the practical objectives set by the Country or Territory concerned and carried out, as far as possible, in the territory of that Country or Territory.

2. The following special aid measures may also be applied to those Countries or Territories:

- (a) support for research aimed at finding solutions to some of their specific economic and social development problems;
- (b) support for the development of small and medium-sized enterprises and for carrying out small rural development schemes.

3. By way of derogation from Article 32(2) of the Regulation and on the basis of an examination of the needs and means of each of the Countries or Territories concerned, the Community may finance, temporarily and on a diminishing scale, the running costs of or major repairs to investments previously financed by the Community which are of special importance to the economic and social development of the

Country or Territory concerned. This aid shall be accorded only where such expenditure on running costs or major repairs proves too great for the Country or Territory or other beneficiaries.

Chapter 5

Specific measures in favour of  
small and medium-sized local firms

Article 9

1. Within the limits of the resources provided for in **Article 28** of the Regulation, the Community shall finance projects in favour of small and medium-sized firms, co-operatives or local authorities in the Countries and Territories and shall generally do so through public or semi-public financial bodies specialized in development, such as local or regional development banks approved by the Community and the relevant authority of the Country or Territory or Countries or Territories concerned.
2. To this end, the relevant authority of the Country or Territory or Countries or Territories concerned shall provide the Community with:
  - information on the capacity of the financing body, on the trend of and prospects for its activities in the field in question, and on the guarantees it can offer;
  - a programme for the promotion of small firms, indicating in particular the scope and nature of the projects, financing requirements, the existence of possible promoters and, where appropriate, the technical assistance the latter are to be provided with for the preparation and management of their projects.
3. When the Community has approved the programme, it shall open for the approved financial body a line of credit financed by a suitable form of aid.

The line of credit shall be for a maximum amount of 2 million units of account, which may be used during a limited period of not more than three years. It may be renewed at the end of that period.

4. The terms governing the grant of such aid shall in each case be the subject of an agreement between the Community and the financing body. The outline rules for the implementation of the aid shall be stipulated therein, in particular as regards:
  - the scale of the operations, which may not exceed an amount in the order of 200 000 units of account per project;
  - the sectors eligible for aid;
  - the criteria which must be met by the potential aid recipients;
  - the criteria and methods of project appraisal;
  - the financial terms of final loans.
5. The projects shall be appraised by the financing body. This body shall decide, on its own financial responsibility, on final loans to be accorded on terms established by reference to those obtaining for this type of operation in the Country or Territory in question.
6. The financing body shall finance its loans by mobilizing the line of credit to the extent required. At this stage the Community shall verify that the loans fall within the agreement referred to in paragraph 4.

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 firms or other final borrowers.

7. The financing body shall be responsible, whatever the circumstances, for repayment to the Community of that part of the line of credit actually mobilized.

It will provide the Community annually with a report on the implementation and financing of the approved programme.

Chapter 6

Microprojects

Article 10

In order to respond concretely to the needs of local communities with regard to development, the Fund can participate in the financing of microprojects.

Article 11

1. In order to be eligible for Community financing, microprojects must:

- meet a real, priority need at local level;
- ensure the active participation of the basic communities.

The Fund's contribution to each microproject may not exceed 75 000 units of account.

2. Microprojects shall normally be carried out in rural areas. However, the Community may also assist in the financing of microprojects in urban areas. These projects shall include dams, wells and water supply systems, silos and warehouses for storing provisions and crops, rural service tracks and bridges, animal vaccination pens and corridors, primary schools, dispensaries, maternity homes, social assistance centres, market buildings and facilities to encourage commercial and industrial activity, and other projects which meet the criteria referred to in paragraph 1.

Article 12

Each project for which Community assistance is requested must stem from an initiative taken by the basic community which will benefit therefrom.

The financing of microprojects shall in principle have a tripartite structure and shall stem from:

- the community benefitting, in the form of a contribution in money or in kind adapted to its capacity to contribute;
- the Country or Territory, in the form of a financial contribution or a contribution of public works services;
- the Fund.

For each project, the basic community shall undertake to play its part in maintaining and running the project, in conjunction with the local authorities as appropriate.

Article 13

1. The relevant authority of the Country or Territory concerned shall prepare and submit to the Commission an annual programme setting forth the broad outlines of the projects planned.

After examination by the Commission's departments, these programmes shall be submitted to the relevant bodies of the Community for financing decisions.

2. Within the framework of the annual programmes thus drawn up, the financing decisions relating to each microproject shall be taken by the relevant authority of the Country or Territory concerned, with the agreement of the Commission which shall be deemed to be given within one month of notification of such decision, except in special cases.

Chapter 7

Competition and terms of preference  
for local firms

Article 14

1. The Commission and the relevant authorities of the Countries or Territories shall take the necessary implementing measures to ensure equality of conditions for participation in tendering procedures and other procedures for the award of contracts financed by the Fund's resources managed by the Commission.
  
2. To this end, without prejudice to Article 16, care shall be taken in particular to:
  - (a) ensure advance publication in reasonable time of invitations to tender in the Official Journal of the European Communities and the official journals of the Countries and Territories;
  
  - (b) eliminate any discriminatory practice or technical specification liable to stand in the way of participation on equal terms by all natural or legal persons of the Member States and Countries and Territories;
  
  - (c) encourage in so far as possible, especially where major works or those of a particular technical nature are to be undertaken, cooperation between the firms of the Member States and of the Countries and Territories for example by means of preselection and the creation of groups.

Article 15

Where the urgency of the situation is recognized or where the nature, minor importance or particular characteristics of certain works or supplies so warrant, the authorities of the Countries and Territories may, in agreement with the Commission, exceptionally authorize:

- the placing of contracts after restricted invitations to tender,
- the conclusion of contracts by direct agreement,
- the performance of contracts through public works departments.

Furthermore, for schemes costing under 2 million units of account recourse to public works departments may be authorized where the recipient Country or Territory has substantial suitable equipment and qualified staff resources available in its local departments.

Article 16

To promote participation by local firms in the performance of contracts financed by the Community from the Fund's resources managed by the Commission:

- (a) An accelerated procedure for issuing invitations to tender involving shorter time-limits for the submission of tenders shall be used where the works in question, because of their scale, are mainly of interest to firms of the Countries and Territories.

This accelerated procedure shall be applied to invitations to tender whose value is estimated at less than 2 million units of account.

It may be used only for works contracts and shall involve, for the submission of tenders, time-limits fixed in accordance with the rules in force in the Country or Territory concerned.

The use of an accelerated procedure for invitations to tender whose value is less than 2 million units of account shall not exclude the possibility of the Commission's proposing an international invitation to tender to the authorities of the Country or Territory for agreement where the works in question, because of their specialized nature, might be of interest to international competition.

- (b) For the execution of works whose value is less than 2 million units of account a 10% preference shall be taken into account in favour of firms of the Countries and Territories where tenders of equivalent economic and technical quality are compared.

This preference shall be confined to local firms of the Countries and Territories within the meaning of the laws in force in those Countries and Territories provided that their residence for tax

purposes and main business are established in a Country or Territory and that a significant share of the capital and management staff<sup>1</sup> are supplied by one or more Countries or Territories.

- (c) For the delivery of supplies a 15% preference shall be taken into account in favour of manufacturing firms of the Countries and Territories where tenders of equivalent technical and economic quality are compared.

This preference shall be confined to local firms of the Countries and Territories which provide a sufficient margin<sup>2</sup> of value added.

<sup>1</sup>Declaration by the Council

This significant share of capital and management staff will be determined case by case by the Commission and the Country and Territory or Countries and Territories concerned.

<sup>2</sup>Declaration by the Council

In order to assess the sufficient margin of value added to the products, the authorities responsible for deciding on invitations to tender will refer to the rules contained in this Regulation concerning the origin of products.

Article 17

The Commission and the relevant authorities of the Countries and Territories shall ensure that Articles 15, 16 and 17 are observed for each operation and that the tender selected is economically the most advantageous, taking into account in particular the qualifications of and the guarantees offered by the tenderers, the nature and conditions of execution of the works or supplies, and the price, utilization costs and technical value of those works or supplies. Where two tenders are acknowledged to be equivalent on the basis of the criteria stated above, preference shall be given to the one which permits the greatest possible utilization of the physical and human resources of the Countries and Territories.

The Commission and the relevant authorities of the Countries and Territories shall ensure that all the selection criteria are specified in the invitation to tender dossier.

The result of invitations to tender shall be published at the earliest possible date in the Official Journal of the European Communities.

Article 18

1. The general provisions and conditions applicable to the placing and performance of public contracts financed by the Fund shall be the subject of common rules adopted unanimously, on a proposal from the Commission, by a decision of the Council.

2. Until the implementation of the decision referred to in paragraph 1, the placing and performance of public contracts financed by the Fund shall be governed:

- as regards the Countries and Territories having special relations with France and the Netherlands, by the Council Decision of 24 July 1973 amending the Decision of 29 September 1970 on the Association of Overseas Countries and Territories with the European Economic Community;
- as regards the other Countries and Territories, by the laws in force in those Countries and Territories or their established practices for international contracts.

Article 19

1. Any dispute arising between the authorities of the Country or Territory concerned and the contractor or supplier in the course of execution of a contract financed by the Fund shall be settled by arbitration in accordance with rules of procedure adopted unanimously, on a proposal from the Commission, by a decision of the Council.

2. As a transitional measure and pending implementation of the decision referred to in paragraph 1, any disputes will be definitively settled in accordance with the rules of conciliation and arbitration of the International Chamber of Commerce.

Chapter 8

Drawing up, negotiation and conclusion  
of technical cooperation contracts

Article 20

Technical cooperation contracts shall be arranged by mutual agreement. Certain contracts may be awarded following competitive tendering, notably for important, complicated and technically difficult studies where technical, economic or financial reasons justify recourse to this procedure.

Article 21

1. For each operation of technical cooperation which will involve a mutual agreement procedure, the Commission shall compile a list of selected candidates from Member States and/or the Countries and Territories, selected according to criteria guaranteeing their qualifications, experience and independence and taking into account their availability for the proposed undertaking.

The relevant authority of the Country or Territory concerned shall choose freely the listed candidate it wishes to deal with.

2. When competitive tendering is resorted to, the list of selected candidates shall be drawn up in close collaboration with the Commission and the relevant authority of the Country or Territory concerned on the basis of the criteria set out in paragraph 1 above. The contract shall be awarded to the listed candidate that submits the tender judged by the Commission and that authority to be economically the most advantageous.

3. The Countries' and Territories' bureaux which may be taken into consideration for technical cooperation actions shall be selected by mutual agreement between the Commission and the relevant authority of the Country or Territory or Countries or Territories concerned.

Declaration by the Council

It has been agreed that, in exceptional cases, and in agreement with the Commission, third country consultancy bureaux or experts may be called upon for assistance.

Article 22

In the context of the common rules provided for in Article 19 and the general conditions of payment established by agreement between the Commission and the authorities of the Countries and Territories, the technical cooperation contracts shall be prepared, negotiated and concluded by the appropriate authorities of the Countries and Territories, in participation and agreement with the Delegate referred to in Article 27 below.

Declaration by the Council

(a) Until the implementation of the decision referred to in Article 19 of the Annex on the application of technical and financial cooperation, the performance of technical cooperation contracts financed by the Fund shall be governed:

- as regards the Countries and Territories having special relations with France and the Netherlands, by the general provisions currently used in the contracts financed by the Fund,
- as regards the other Countries and Territories, unless they apply temporarily the general provisions at present used in the contracts financed by the Fund, by the laws in force in the Countries and Territories or their established practices for international contracts.

(b) The Council is agreed that the Commission shall establish and submit for the agreement of the authorities of the Countries and Territories, as soon as possible after the entry into force of the Regulation, the general terms of remuneration for determining the fees to be specified in the contracts.

Article 23

The Commission shall, as far as possible, encourage cooperation between consultants and experts of Member States and the Countries and Territories, temporary partnerships, subcontracting and the use of local experts in the teams belonging to consultants from Member States.

Article 24

When a Country or Territory has, within its administrative and technical staff, local personnel making up a substantial part of the work force necessary for the execution by the public works department of a technical cooperation project the Community could, in exceptional cases, contribute to the costs of the public works department by providing certain apparatus that it lacks, or supply the required additional staff in the form of experts of a Member State or of another Country or Territory.

The participation of the Community could only cover costs incurred by supplementary measures strictly confined to the project in question and would exclude all current operational expenditure.

Chapter 9

Executive Agents

Article 25

1. The Commission shall appoint the Chief Authorizing Officer of the Fund, who shall ensure that financing decisions are carried out.

He shall take any adaptation measures and commitment decisions which prove necessary to ensure the proper execution of approved projects or programmes in the best economic and technical conditions.

2. Without prejudice to Article 26 the Chief Authorizing Officer shall manage the funds, and shall accordingly commit, clear and authorize expenditure and keep the accounts of commitments and authorizations.

3. The Chief Authorizing Officer shall ensure equality of conditions for participation in invitations to tender, and see to it that there is no discrimination and that the tender selected is economically the most advantageous.

Article 26

1. The authorities of each Country or Territory shall appoint a Territorial Authorizing Officer to represent them in all operations relating to projects financed from the Fund's resources.
2. In addition to his responsibilities in connection with the preparation, submission and appraisal of projects, the Territorial Authorizing Officer shall, in close cooperation with the Delegate, issue invitations to tender, receive tenders, preside over the examination of tenders, establish the results of the invitations to tender, sign contracts and riders thereto and estimates and notify the Commission thereof. He shall submit the invitation to tender dossier to the Commission for agreement before issuing invitations to tender.
3. He shall transmit to the Chief Authorizing Officer for agreement the outcome of the examination of the tenders and a proposal for placing the contract.
4. As regards works contracts subject to accelerated procedure, the decisions taken by the Territorial Authorizing Officer in implementation of paragraphs 2 and 3 shall be deemed to be approved by the Commission within a period of one month of notification thereof.
5. The Territorial Authorizing Officer shall clear and authorize expenditure within the limits of the funds delegated to him. He shall remain financially liable until the Commission clears the operations for the execution of which he is responsible.
6. During the execution of projects and subject to his informing the Delegate as soon as possible, the Territorial Authorizing Officer shall also decide on:
  - (a) technical adjustments and alterations on matters of detail, so long as they respect the general framework of the project and contract, do not affect the technical solutions adopted and remain within the limit of the provision for minor adjustments;

Article 26 (continued)

- (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 or economic grounds;
- (e) application 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 Countries and Territories provided there is no production of comparable goods in the Member States or Countries and Territories;
- (i) subcontracting;
- (j) final acceptances; however, the Delegate must be present at provisional acceptances and endorse the corresponding minutes and, where appropriate, he must be present at final acceptances, in particular where the extent of the reservations recorded at the provisional acceptance necessitates major additional work.

Article 27

1. For the purposes of applying the Regulation and for the purposes of the Fund's resources which the Commission manages, the Commission shall be represented in each Country and Territory by a Delegate.
2. Provided that an express request is made by the relevant authority of the Country or Territory concerned, 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 for submission, 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 procedures, and in preparing general specifications and invitation to tender dossiers.
3. The Delegate shall, on a regular basis, and in certain cases acting on special instructions from the Commission, inform the authorities to which he is attached of Community activities which may directly concern cooperation between the Community and the Countries and Territories.
4. The Delegate shall collaborate with the local authorities in examining completed projects regularly. Reports on the outcome of the examination shall be drawn up by him and communicated to the relevant authority of the Country or Territory concerned.
5. Every six months the Delegate shall assess the Fund's operations in the Country or Territory in which he represents the Commission. Reports drawn up in this connection shall be communicated by the Commission to the relevant authority of the Country or Territory concerned.
6. The Delegate shall make sure, on behalf of the Commission, that the projects and programmes financed from the Fund's resources are executed properly from the financial and technical angles.

Article 28

1. Services provided in connection with projects financed by the Fund with grant aid shall be paid for on instructions from the Commission by drawing on the Fund's accounts.

2. For this purpose, accounts shall be opened on behalf of the Commission with a financial institution, which shall exercise the functions of Paying Agent.

3. Within the limits of the funds available, the Paying Agent shall make the disbursements authorized after verifying that the supporting documents provided are substantively accurate and in order, and that the discharge is valid.

Chapter 10

Other provisions

Article 29

1. Excess expenditure incurred during the execution of a project financed from the Fund's resources managed by the Commission shall be borne by the Country or Territory or Countries or Territories concerned, subject to the following provisions.
2. As soon as it appears likely that a project will involve excess expenditure, the Territorial Authorizing Officer shall so inform the Commission through the Delegate and shall make known to it the measures he intends to take in order to cover such excess expenditure, involving either a reduction in the scale of the project or a call on local resources.
3. If it appears impossible to reduce the scale of the project or to cover the excess expenditure by drawing on local resources, the Community body responsible for taking the financing decisions may, as an exceptional measure, take a decision to commit additional funds and finance the relevant expenditure either by savings made on other projects or by implementing supplementary measures worked out jointly by the Commission and the authorities of the Country or Territory or Countries or Territories concerned.
4. Without prejudice to the arrangements provided for in paragraphs 2 and 3, the Territorial Authorizing Officer shall decide, in concert with the Chief Authorizing Officer, to earmark unexpended balances resulting from savings shown when the accounts of projects are closed for covering excess expenditure on another project, provided that such excess expenditure is not greater than a fixed ceiling of 15% of the total appropriation for the project in question.

Article 30

Financing and administrative expenses arising out of the administration of the Fund and the costs of supervising projects and programmes shall be covered by the Fund.

**Annex No 6 relating to Article 2  
of the Regulation**

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The duties which may be temporarily retained under Article 38 of the Act concerning the Conditions of Accession and the Adjustments to the Treaties shall remain generally applicable and Article 2(1) of the Regulation may not constitute an exception thereto.

**Annex No 7 relating to Article 3  
of the Regulation**

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Article 3(1) of the Regulation shall be without prejudice to certain quantitative restrictions and the special system applicable to imports of motor vehicles and the motor vehicle assembly industry in Ireland which are the subject of Protocols Nos 6 and 7 to the Act concerning the Conditions of Accession and the Adjustments to the Treaties.

Annex No 8 (to the Regulation)

Annex No 8 (to the Regulation)

1. Until the entry into force of a common organization of the market in spirits, products of tariff heading No 22.09 C.I. originating in the Countries and Territories shall be imported duty free into the Community under conditions such as to permit the development of traditional trade flows between the Countries and Territories and the Community and between the Member States.
  
2. (a) For the purpose of applying paragraph 1 and by derogation from Article 2(1) of the Regulation, 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 Countries and Territories into the Community in the last three years for which statistics are available, increased by an annual growth rate of 13%.  
  
(b) Where the application of the provisions of the preceding subparagraph hampers the development of a traditional trade flow between the Countries and Territories and a Member State, the Community shall take appropriate measures to remedy this situation.  
  
(c) To the extent that the consumption of rum increases significantly in the Member States, the Community commits itself to engaging in a new examination of the annual percentage increase fixed by the present Annex.  
  
(d) The Community moreover declares itself willing to seek with the authorities of interested Countries and Territories measures capable of allowing an expansion of their sales in non-traditional markets.

ANNEX II

DRAFT AGREEMENT

on trade with the Overseas Countries and Territories in products within  
the province of the European Coal and Steel Community

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 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 signed at Paris on 17 April 1951, whose States are hereinafter  
referred to as "Member States",

HAVING REGARD to the Treaty establishing the European Coal and Steel  
Community;

HAVING REGARD to the Treaty establishing the European Economic Community,  
and in particular Article 232 thereof;

Considering the fact that Title I "Trade Cooperation" of Council Regulation  
(EEC) No            of            1975 on the Association of the Overseas  
Countries and Territories with the European Economic Community, hereinafter  
called "Countries and Territories", does not apply to products within the  
province of the European Coal and Steel Community,

Desiring nevertheless to maintain and increase trade in those products between the Member States and the Countries and Territories;

Have designated as Plenipotentiaries:

WHO, having exchanged their full powers, found in good and due form,

HAVE AGREED as follows:

Article 1

Products within the province of the European Coal and Steel Community shall, when they originate in the Countries and Territories, on importation into the Community be admitted free of customs duties and charges having equivalent effect; however, the treatment applied to these products shall not be more favourable than that applied by the Member States among themselves.

For the purposes of the preceding sub-paragraph in respect of the treatment applied by the Member States among themselves, account shall not be taken of the customs duties and charges having equivalent effect applied pursuant to Articles 32, 36 and 59 of the Act concerning the Conditions of Accession and the adjustments to the Treaties.

Article 2

Products referred to above originating in the Member States shall, on importation into the Countries and Territories, be admitted free of customs duties and charges having an effect equivalent to such duties and free of quantitative restrictions and measures having equivalent effect, under conditions similar to those laid down in Title I, Chapter 1 of the Regulation on the Association of the Overseas Countries and Territories with the European Economic Community.

Article 3

Consultations shall take place between the Parties concerned in all cases where, in the opinion of one of them, the implementation of the above provisions calls for such consultations.

Article 4

The provisions laying down the rules of origin for the application of the Council Regulation on the Association of the Overseas Countries and Territories with the European Economic Community shall also apply to this Agreement.

Article 5

This Agreement shall not affect the provisions of the Treaty establishing the European Coal and Steel Community, nor the powers of jurisdiction conferred by that Treaty.

Article 6

This Agreement shall be approved by each Signatory State in accordance with its own constitutional requirements.

The Government of each State shall notify the Secretariat of the Council of the European Communities of the completion of the procedures required for the entry into force of this Agreement. This Agreement shall enter into force on the first day of the month following the date on which the instruments of ratification of the Member States have been deposited.

Article 7

This Agreement shall expire on 1 March 1980.

Article 8

This Agreement, drawn up in a single original, in the Danish, Dutch, English, French, German and Italian languages, all texts being equally authentic, shall be deposited in the archives of the Secretariat of the Council of the European Communities, which shall transmit a certified copy to each of the Governments of the Signatory States.

FINANCIAL ANNEX

The financial consequences that are likely to result for the Community from the proposals contained in this Communication amount to 160 million u.a. and relate to the European Development Fund (150 million u.a.) and the EIB (10 million u.a.).

There are therefore no new implications for the Commission budget.