

ACP - EEC CONSULTATIVE ASSEMBLY

Working Documents

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**REPORT OF ACTIVITIES FROM THE INTERIM COMMITTEE
TO THE ACP-EEC COUNCIL OF MINISTERS**

covering the period 28 February 1975
to 31 March 1976

ACP-EEC CONVENTION OF LOME

—
THE COUNCIL
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THE SECRETARIES

Brussels, 15 July 1976

Mr Georges SPENALE
President of the European
Parliament

Mr Philippe YACE
President of the National Assembly
of the Ivory Coast

Presidents of the ACP-EEC
Consultative Assembly

Case postale 1601

LUXEMBOURG

Dear Sirs,

At its first meeting of 14/15 July 1976, the ACP-EEC Council of Ministers approved the report of activities submitted by the ACP-EEC Interim Committee for the period between the signing of the Lomé Convention on 28 February 1975 and its entry into force on 1 April 1976, and agreed to forward it to the ACP-EEC Consultative Assembly for information.

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In accordance with our instructions from the ACP-EEC Council of Ministers, we enclose herewith a copy of this report in each of the languages of the Lomé Convention. If required, additional copies will be sent to your secretariat at a later date.

The ACP-EEC Council of Ministers has thus complied with the wish expressed by the ACP-EEC Consultative Assembly at its constituent meeting of 1-3 June 1976 to the effect that the text of this report of activities should be made available to it so that it can be examined by the Joint Committee.

Yours sincerely,

DODOO

LESORT

Secretaries to the ACP-EEC
Council of Ministers

1. The ACP-EEC Interim Committee was set up by the exchange of letters effected on 28 February 1975 on the occasion of the signing of the Lomé Convention concerning a number of interim provisions which the Community and the ACP States agreed to apply pending the entry into force of the Convention.

The Committee, composed of representatives appointed on the one hand by the Community - the Permanent Representatives of the Member States and a Commission representative, together with a representative of the European Investment Bank to cover matters concerning the Bank - and representatives appointed on the other by the ACP States - the 46 ACP Ambassadors accredited to the Community - was instructed to prepare, as from 1 March 1975, the entry into force of the Convention.

2. The Committee's tasks included:

- implementation of the provisions concerning

- trade co-operation, including administrative co-operation on the rules of origin;
- = industrial co-operation;
- = the Protocol on ACP sugar;

- implementation of statistical and administrative co-operation regarding the system for stabilizing export earnings;
- preparation of the draft Rules of Procedure of the Council of Ministers and the Committee of Ambassadors;
- arrangements for the consultations on presentation of the Convention to GATT.

It was also agreed that any problems raised by the autonomous application of certain provisions of the Convention as from 1 July 1975 would be discussed in the Interim Committee if one of the Contracting Parties so requested.

3. The Interim Committee held seven meetings, on 11 April 1975, 16 May 1975, 22 October 1975, 17 November 1975, 23 February 1976, 27 February 1976 and 29 March 1976. Following the last meeting, which immediately preceded the entry into force of the Lomé Convention on 1 April 1976, the Interim Committee agreed to submit to the ACP-EEC Council of Ministers a report on all its activities, which covered all the major areas dealt with in the Lomé Convention.

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I. INSTITUTIONS

The Interim Committee began and concluded its proceedings with the adoption of a number of provisions in the institutional field.

At its first meeting, it agreed on the broad lines of its Rules of Procedure, which it adopted at a later date. They provide for the Committee to be chaired jointly by the Chairman of the ACP Committee of Ambassadors and the Chairman of the Permanent Representatives Committee, for notice to be given for meetings, for a quorum rule and for the setting up of six Sub-Committees in the fields of trade co-operation, customs co-operation, stabilization of export earnings, sugar, industrial co-operation and financial and technical co-operation respectively, without prejudice to the permanent joint group on bananas provided for in Protocol No 6 annexed to the Convention.

The Rules of Procedure of the Interim Committee also contain procedural provisions applying to the sub-Committees and the Banana Group, which are to report on their proceedings to the Interim Committee.

Lastly, they entrust a joint Secretariat, assisted by the General Secretariats of the ACP States and of the Council of the European Communities, with the task of providing the secretariat and carrying out other duties which the work of the Committee, sub-Committees and the Banana Group entail. The Secretariat was provided by an ACP Joint Secretary - in the person of the Secretary-General of the ACP States - and on the side of the Community a Joint Secretary - in the person of the Director for the ACP at the General Secretariat of the Council of the European Communities.

Throughout its work, therefore, the Interim Committee operated within an institutional structure which was both flexible and dynamic, enabling it to carry out successfully the tasks entrusted to it. The sub-Committee and the Banana Group which all met during the interim period, in some cases many times, carried out a technical examination of the problems and at the same time a political assessment of the solutions which could be considered in those sectors for which they were responsible. Since, however, there existed no joint body at ministerial level, the Committee left open the possibility of carrying out an overall assessment and of adopting the solutions which appeared most appropriate in the overall context of the co-operation set up by the signature of the Convention.

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The Committee was also able, at its final meeting on 29 March 1976, to finalize the draft Rules of Procedure of the Council of Ministers and of the Committee of Ambassadors, for recommendation to the Council. The functioning of the Interim Committee, inspired by the climate of understanding engendered through the Lomé Convention, given both sides considerable satisfaction. Accordingly it will be readily understood why the rules proposed for the Committee of Ambassadors are not significantly different from those of the Interim Committee. The draft Rules of Procedure of the Council of Ministers are also based on those Rules. It was however considered appropriate to introduce certain adaptations to take account of the character of the Council and in particular its level and the frequency of its meetings.

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II. TRADE CO-OPERATION

A considerable part of the Interim Committee's work concerned trade co-operation, largely because the provisions of the Convention relating to trade arrangements (chapter 1 of Title I and the Protocols and Declarations concerning originating products, Botswana, Lesotho and Swaziland, fisheries, rum and bananas) and the provisions relating to the arrangements to be applied to coal and steel were implemented autonomously on 1 July 1975.

In this context the ACP States drew the Committee's attention to certain aspects of the information and consultation procedure provided for in the Convention whereby it should be possible for information to be made available at all times and consultations should take place whenever the essential interests of the Parties may be affected. They also strongly advocated that the Committee should, by joint agreement, provide for appropriate machinery whereby they could be involved in the preparation of those Community measures which were to apply to them, so that they could make their positions known before the Community's decisions were finalized.

After speaking of the need to act swiftly - if only to draw up the Regulations and Decisions which would enable it to fulfil the bulk of its obligations towards the ACP States as from 1 July 1975 - the Community said that it was open to the possibility of discussing questions of particular concern to the ACP States. It proposed that a dialogue should also be set up within the appropriate Committees in order to clarify certain individual points.

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A dialogue of this type began at the first meeting of the Sub-Committee on Trade Co-operation and continued on a number of topics during the seven meetings held by the sub-Committee, which reported on its work to the Interim Committee after each meeting. The dialogue centred on the following subjects:

1. Community generalized preference scheme for 1976

The ACP States, setting out their position regarding the improvement of generalized preferences in the scheme for 1976, expressed their fear that the generalized preferences system would erode their advantages under the Lomé Convention and put forward comments on this subject which referred to the Council of the European Communities before it took its decision.

The Community repeated the principles underlying the system of generalized preferences for developing countries which, in view of the special relationship between the Community and a number of these countries, especially the ACP States, was one element of a balanced overall policy towards the third world, particularly the least favoured countries. From a technical standpoint, it said that consideration could be given to the possibility of withdrawing the offer, in whole or in part, in order to remedy any unfavourable situations that might arise in the ACP States as a result of applying the system. The Community said that it was prepared to examine at any time and at the request of the ACP States any difficulties caused by applying the preference scheme which affected the marketing of their products.

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2. Application by the ACP States of the provisions on trade

With regard to the application of Article 7 of the Convention, which provides that the ACP States shall not discriminate against or among the Member States and also provides for treatment no less favourable than the most-favoured-nation treatment, a procedure was devised by the ACP States whereby they could give details of any measures they had taken or were if necessary to take in order to apply this provision. While certain details remained to be clarified, this information procedure had generally speaking been functioning satisfactorily.

In addition, in compliance with Article 8 of the Convention which stipulates that each Contracting Party must communicate its customs tariff to the Council of Ministers within three months following the Convention's entry into force, a fairly large number of ACP States communicated their tariffs to the Interim Committee, even before this deadline.

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3. Presentation of the Lomé Convention to GATT

The Interim Committee took the necessary steps to ensure that the text of the Convention was forwarded to GATT and then presented to and defended before the relevant authorities of the General Agreement. Annex I to the Final Act indeed stipulated that the Contracting Parties must consult when the trade provisions of the Convention were presented and examined under GATT.

When GATT forwarded a questionnaire on the Lomé Convention a procedure was established by the sub-Committee on trade Co-operation, and confirmed by the Interim Committee, to ensure that the replies dealing with questions of common interest were joint replies, with a system of reciprocal information to ensure that all the replies were consistent. The sub-Committee examined the draft replies drawn up by the two parties and was thus able to draft a common text (except for statistical data which principally concerned the Community) which was submitted to the GATT Secretariat separately by the ACP States and the Community in mid-March 1976.

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4. Community offer regarding tropical products in the GATT multi-lateral trade negotiations

The Community had informed the ACP States of the content of the offer which the Commission proposed that the Council of the Communities present regarding tropical products in the GATT multilateral trade negotiations and consultations were then held, in accordance with the agreed procedure, in both the Interim Committee and the sub-Committee on Trade Co-operation.

Although the need to meet deadlines did not always make it possible to give the ACP States all the time they wished, the consultations enabled the ACP States to state their views, as regards both principles and practical consequences, and the Community to become fully cognizant of these views before adopting its offer for tropical products.

The ACP States commented in particular that concessions over and above those granted under the 1976 generalized preferences scheme would probably increase the share third countries enjoyed on the Community market at the expense of the ACP States. They stressed the importance to them of their exports of coffee and cocoa, products which would account for approximately 80% of the Community's offer, and while they were not against granting trade advantages to other developing countries, they felt it only right that, after the long and hard negotiations on the Lomé Convention, they should be able to derive real profit from the trade provisions of the Convention.

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The Community supplied some explanations concerning the Commission proposals, indicating that they would probably be amended before they were adopted by the Council of the Communities. Subsequently, the Community took the representations put forward by the ACP States into account to some extent when determining its offer. The offer which the Community finally adopted for tropical products was communicated to the ACP States for information in the first days of April.

5. Problems concerning certain agricultural products

(a) Beef and veal

At a meeting in Strasbourg on 18 June 1975 the President of the Council of Ministers of the ACP States conveyed to the President of the Council of the European Communities the concern felt by those ACP States which export beef and veal at the difficulties encountered in obtaining access for their products to the Community market (application of the safeguard clause, extremely high import levy, other technical problems). The ACP States submitted a memorandum on this question.

Following exchanges of views in the sub-Committee on Trade Co-operation the Community adopted on 25 June 1975 a set of provisional regulations applicable from 1 July until 31 December 1975 and designed to ensure that - in the existing market situation - the pattern of exports from the ACP States, particularly Botswana, to the Community was fully maintained (derogation from the safeguard clause, 90% cut in the import charges, technical measures to facilitate the issue of licences).

At the Interim Committee's meeting on 17 November 1975 the ACP States asked that the measures taken by the Community be extended beyond 31 December 1975 without interruption, so that the ACP States could continue to export beef and veal to their traditional markets in the Member States. After examining this request the Community extended the regulations in question temporarily, until 30 June 1976 only.

(b) Cut flowers and foliage

On the basis of a memorandum referring to the commitments given by the Community when the Convention was signed, the ACP States emphasized in the Interim Committee the serious consequences for producers of applying customs duties on cut flowers and foliage imported into the Community from Kenya in particular.

The Community, which had undertaken to grant the ACP States duty-free entry as soon as common import arrangements for this product were introduced, expedited its work in this area and was able to implement the common import arrangements and simultaneously grant the ACP States duty-free entry on 1 January 1976, as it had undertaken to do when the Convention was signed.

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II. Customs co-operation

Protocol No 1 annexed to the Convention concerning the definition of the concept of "originating product" and methods of administrative co-operation, was implemented in advance by the Community and the ACP States on the same date (1 July 1975) as on the trade provisions co-operation. It was necessary to implement the Protocol in order to apply these provisions satisfactorily.

The bulk of the work, which was of an essentially technical nature, was done in the sub-Committee on Customs Co-operation, which met three times during the interim period.

The sub-Committee discussed how originating status was to be acquired, the documentary evidence to be produced and the problems of cumulative origin. In this context the sub-Committee also dealt with the difficulties involved in issuing EUR 1 certificates in some ACP States, the requirement of some ACP States that an EUR 1 certificate be presented for imports of products originating in the Community or in some Member States, and the period of validity of EUR 1 certificates in the light of the problem of land-locked countries.

In this context it was felt to be desirable that the Community prepare for the benefit of users, a guide to the application of Protocol No 1, and that it organize information seminars.

Lastly the ACP States submitted an application for a derogation from the rules of origin in accordance with Article 27 of Protocol No 1 in respect of certain textile products exported from Mauritius to the Community. The Community is examining this request which will be included in the Agenda of the first meeting of the Council of Ministers.

The Interim Committee was pleased at the excellent way in which the sub-Committee on Customs Co-operation had functioned. It was to be succeeded from the entry into force of the Lomé Convention on 1 April 1976 by the Customs Co-operation Committee set up by Article 28 of Protocol No 1.

IV. Stabilization of export earnings

- (a) The Interim Committee, assisted by the sub-Committee on the Stabilization of Export Earnings, which met on two occasions, was chiefly concerned with the period of application of the stabilization system.

The system can in fact be implemented either on the basis of the period of application of the Convention (which expires on 1 March 1980) or on that of calendar years. For the sake of convenience, particularly as regards statistics and calculations, the Community suggested that the calendar years 1975 to 1979 be used. The ACP States, although they did not adopt a position on the duration of the stabilization mechanism and particularly on the date of 31 December 1979 for its expiry, agreed that the system should cover a period beginning on 1 January 1975.

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- (b) The discussions dealt secondly with the bases for calculation and figures:

For calculating the reference level, the Convention having set a reference period of 4 years, it was agreed that the relevant methods of calculation would be established jointly by experts of the ACP States and the Community. The experts also carried out technical studies of the choice of conversion coefficients for fob/cif values.

Despite the difficulties inherent in notifying statistics monthly, it was laid down that the ACP States would make the statistics available to them at intervals enabling financial transfers to be made rapidly (generally on a monthly basis).

- (c) More generally, it was recognized that suitable steps needed to be taken to ensure rapid financial transfers, particularly in the form of advances. The Interim Committee and the Subcommittee were informed that Commission officials have undertaken missions to 36 ACP States to discuss with their authorities the rules of operation of the system and to establish the conditions for its functioning. It emerged from these missions that the conditions for the operation of the system have been met in all the ACP States, each of them having appointed the officials responsible for regular contacts with the Commission, for cross-checking statistics (Article 17(1)), for consultations (Article 19(4)(b)), for submitting transfer requests, for signing transfer agreements and for receiving funds.

The Commission has also put forward proposals for the time-table of operations to be carried out from 15 March to June 1976 in respect of the year 1975.

- (d) Lastly, the ACP States brought up a number of specific cases which prompted them to make suggestions regarding the origin of products eligible to benefit from the system, the extension of the list of products covered, the enlargement of the list of countries whose exports are covered irrespective of destination, flexible application of the reference period and the aggregation of products in the raw hides, skins and leather and groundnut sectors. They also asked for details regarding transfer agreements and the appraisal of transfer applications.

Although the Community reserved its position on some of these suggestions, the proceedings of the Interim Committee in a sphere as novel as that of the stabilization system nonetheless gave grounds for hope that, the transfers in respect of the year 1975 could, thanks to the provisions adopted, take place in the months immediately following the entry into force of the Convention on 1 April 1976.

V. Sugar

Protocol No 3 on sugar has been applied since 1 March 1975. It was thus the first of all the texts of the Lomé Convention to enter into force.

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To ensure the correct application of this Protocol the Interim Committee set up a Subcommittee on Sugar, which met on three occasions.

The first two meetings were devoted to consultations with the ACP States regarding Community regulations on the common organization of the market in sugar, and more particularly regarding the inclusion in these regulations of sugar imported under the conditions set out in Protocol No 3.

It was agreed that formal consultations on sugar, particularly pursuant to Article 8 of the Protocol, should normally refer to the content of these Community regulations and not to draft texts. The Community will, however, forward these drafts to the ACP States for information. The areas of consultation were also specified. Consultations would likewise take place on re-allocations in the event of inadequate deliveries by an ACP State. Lastly, the operation of the sugar Protocol will be regularly reviewed in the Subcommittee, in principle twice a year.

The third meeting of the Subcommittee was convened in response to a request put by the ACP States in the Interim Committee in accordance with Article 8 of Protocol No 3 for consultations on a proposal for a regulation of the Council of the European Communities amending Regulation (EEC) No 3330/74 on the common organization of the market in sugar. The amendment proposed by the Commission which concerned the ACP States dealt with the levying and reimbursement of storage costs and the creation of a minimum stock (Community sugar and preferential sugar).

On the basis of Protocol No 3, the ACP States disputed during the consultation that the Community Regulations could, unless otherwise stipulated, be automatically applied to imported preferential sugar. They contended that the prior consultation and agreement of the ACP States was necessary. As regards practical details they pointed out that the figures for Community sugar were different from those for preferential sugar and that the proposed amendments to Regulation No 3330/74 were unnecessary in respect of preferential sugar and could adversely affect the interests of producer ACP States.

The Community took note of these remarks, stating that they would be reported to the Council of the Communities and fully taken into consideration in further proceedings.

VI. Industrial co-operation

Priority was given in discussions during the interim period on industrial co-operation provided for in Title III of the Lomé Convention to the implementation of the provisions of the Convention relating to the setting up and rules of operation of the Committee on Industrial Co-operation and the Centre for Industrial Development.

In these discussions the Interim Committee and the Subcommittee on Industrial Co-operation, which held two meetings (a third being scheduled for early April), endeavoured to ensure that the Committee of Ambassadors, to which fell the task of establishing the composition and details of operation of the Committee on Industrial Co-operation, would be in a position to take rapid decisions and so enable this co-operation to become effective as soon as possible after

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the entry into force of the Convention. They were also aware of the paramount role of the economic operators in achieving the objectives of the chapter on industrial co-operation and of the commitments entered into in this respect by the signatories to the Convention, particularly in Article 38 thereof.

As decided by the first meeting of the Subcommittee, the Community forwarded to the ACP States, under cover of a letter dated 14 November 1975, a communication dealing more specifically with the bodies provided for by the Convention and defining the tasks, nature and composition of the Committee on Industrial Co-operation and the Centre for Industrial Co-operation, the representation of the Centre on the Committee, the participation of economic operators and the day-to-day running of the Centre. Regular consultation of economic and social circles was also mentioned.

The ACP States gave their initial reactions to the Community suggestions regarding the Committee, which they reserved the right to study further before adopting a position on those regarding the Centre, particularly those on the representation of the operators and on matters of financing.

In the supplementary memorandum, which is to be discussed at the third meeting of the Subcommittee scheduled for early April 1976, the Community set forth its views, particularly on the Centre for Industrial Development, in the light of the ACP States' reactions.

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It also drew up and immediately forwarded to the ACP States a preliminary draft of the Statutes of the Centre.

The ACP States also forwarded to the Community a draft statute concerning both the Committee for Industrial Co-operation and the Centre for Industrial Development.

The next stage will concern the setting up of the Committee for Industrial Co-operation and the Centre for Industrial Development, the cornerstones of this entirely new type of co-operation. In all likelihood the preparatory work done under the auspices of the Interim Committee will enable the Council of Ministers and Committee of Ambassadors to take decisions at their first meetings on all the texts necessary for the smooth operation of the bodies to which the Convention has entrusted this co-operation.

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VII. Financial and technical co-operation

Although Title IV of the Convention and Protocol No. 2 on financial and technical co-operation are not among the provisions which it was possible to implement in advance, the Community and the ACP States were not inactive in this sphere during the interim period. As part of the permanent dialogue between the two parties, the Council communicated to the ACP States, together with its Internal Financial Agreement on procedures, the Internal Financial Agreement signed on 11 July 1975 by the Representatives of the Governments of the Member States.

The Community has also sent to the ACP States the Decision of the Council of the Communities dated 30 July 1975 regarding the interim measures taken by the Community in order to allow the provisions of the Lomé Convention concerning financial and technical co-operation to be implemented from the date of entry into force of the Convention.

The sub-Committee on Financial and Technical Co-operation held a first meeting during this period. At this meeting, the Community replied to the questions of the ACP States regarding the internal Financial Agreement. Thanks to a spirit of mutual understanding, positive progress was made in this field at the proceedings, thus demonstrating the usefulness of the permanent dialogue under the Convention.

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The Community has also given details of the internal work it has undertaken in execution of the Decision of the Council of 30 July 1975. The Services of the Commission and of the EIB have, for example, within the framework of the application of Article 51 of the Convention, proceeded to send programming missions to the ACP States.

It was also pointed out that as a result of this decision of the Council of the Communities, requests for financing could be submitted to the Community even before the entry into force of the Convention in order that the Services of the Commission and of the EIB could undertake an examination of the projects and programmes during the interim period.

Lastly the Commission has been authorized to make the necessary approaches with a view to establishing Delegates in the new ACP States in order that technical assistance could be provided if required in the preparation and implementation of projects and programmes when an ACP State might wish to submit for Community financing.

On proposal of the ACP States, it was agreed that the Committee would discuss at its next meeting the ways of implementing the provisions of the Convention on regional co-operation, on measures in favour of the least developed countries and regarding the micro-projects.

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VIII. Bananas

Protocol No 6 on bananas provided, from the signing of the Convention and without awaiting the establishment of its institutions, for a permanent joint group to keep under continuous review the progress made and to make such recommendations as were considered appropriate.

This joint group, which was set up and which operates in the same way as the other sub-committees, reported to the Interim Committee on the proceedings of its inaugural meeting, opened on the basis of a procedural proposal from the Community. After this useful first contact, which enabled the joint group to adopt its operating procedures and to give consideration to a work programme, the ACP States announced their intention of submitting to the Community their views on how to improve the functioning and achieve the objectives of Protocol No 6. It was agreed that the Community would study these views as soon as it received them so that it could make known its position at the following meeting of the permanent joint group.

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IX. Requests for accession to the Lomé Convention

Any country or territory to which the fourth part of the Treaty of Rome applies and which becomes independent, or any State whose economic structure and production are comparable with those of the ACP States, may apply for accession to the Lomé Convention and their applications are examined in accordance with the conditions laid down respectively in Article 89 and Article 90 of the Convention.

Before the Convention entered into force the Republic of Cape Verde, Sao-Tomé and Príncipe, Papua New Guinea, the Comoros and the Republic of Surinam applied for accession, Surinam also asking permission to take part as an observer in the institutions set up under the Convention pending its actual accession.

The ACP States indicated that they were in favour of these States acceding to the Convention. The Community, for its part, informed the representatives of the ACP States of the terms of the letters of reply sent to the Governments of some of the applicant countries, in which they were assured that the Community would examine their applications sympathetically once the Convention had entered into force.

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The Interim Committee, which, since the Convention was to enter into force on 1 April 1976, held its seventh and last meeting in Brussels on 29 March 1976, reviewed its work with satisfaction on that occasion. Over the past months it had succeeded in ensuring that the provisions of the Convention covering those fields in which it was implemented in advance by the two parties (all the trade and customs co-operation provisions and the Protocol on sugar) ⁽¹⁾ were put into effect in a satisfactory and orderly manner and, in addition, it had paved the way for full application of the Convention on its entry into force.

With this entry into force in mind, at its meeting on 29 March the Interim Committee finalized the draft Rules of Procedure of the ACP-EEC Council of Ministers and Committee of Ambassadors. These institutions, set up under Article 69 of the Convention, will thus be able to approve their Rules of Procedure at their first meetings. Steps have also been taken to ensure continuity at institutional level pending the first meetings of the institutions proper.

Before bringing the meeting to a close the Ambassadors of the ACP States, the Permanent Representatives of the Member States and the Commission representative expressed their confidence in the new institutions and their certainty that they would operate in the same atmosphere of mutual understanding and constructiveness which had been a permanent feature of the Interim Committee.

⁽¹⁾ The exchange of letters of 28 February 1975 which provided for interim measures and set up the Interim Committee was due to expire on 29 February 1976 at the latest. Therefore, since the Convention did not enter into force until 1 April 1976, the exchange of letters was extended until 31 March 1976 by a further exchange of letters of 22 February 1976.

