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In accordance with Council Regulation (EEC, Euratom) No 354/83 of 1 February 1983 concerning the opening to the public of the historical archives of the European Economic Community and the European Atomic Energy Community (OJ L 43, 15.2.1983, p. 1), as amended by Regulation (EC, Euratom) No 1700/2003 of 22 September 2003 (OJ L 243, 27.9.2003, p. 1), this file is open to the public. Where necessary, classified documents in this file have been declassified in conformity with Article 5 of the aforementioned regulation.

In Übereinstimmung mit der Verordnung (EWG, Euratom) Nr. 354/83 des Rates vom 1. Februar 1983 über die Freigabe der historischen Archive der Europäischen Wirtschaftsgemeinschaft und der Europäischen Atomgemeinschaft (ABl. L 43 vom 15.2.1983, S. 1), geändert durch die Verordnung (EG, Euratom) Nr. 1700/2003 vom 22. September 2003 (ABl. L 243 vom 27.9.2003, S. 1), ist diese Datei der Öffentlichkeit zugänglich. Soweit erforderlich, wurden die Verschlussachen in dieser Datei in Übereinstimmung mit Artikel 5 der genannten Verordnung freigegeben.

COMMISSION OF THE EUROPEAN COMMUNITIES

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Strasbourg, 15 october 1975

ACCESSION OF NEW MEMBERS TO THE LOME CONVENTION

(Commission Communication to the Council)

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ACCESSION OF NEW MEMBERS TO THE
LOME CONVENTION

(Commission Communication to the Council)

1. INTRODUCTION

At the Council meeting of 15-16 September 1975 the Commission laid stress on the urgent problems posed by the accession of third countries to the Lomé Convention in view of the fact that the Convention will not be entering into force in the immediate future. This situation is due to the time required for ratification by certain Member States of the Community; the ACP States will be reaching the necessary quorum of ratifications in the near future. The Commission announced that it would present a communication to the Council on this matter as soon as possible since the problems in question should be dealt with speedily.

Since the signature of the Lomé Convention a number of African, Caribbean and Pacific countries whose economic structure and production are comparable to those of the ACP States have become or are about to become independent.

The Democratic Republic of São Tomé and Príncipe has already made a formal request to the Commission for accession to the Lomé Convention; others have made official or unofficial contacts with the Community and indicated that they are interested in acceding to the Convention.

These moves reflect a positive attitude towards the Community and the Lomé Convention and testify to the success of our cooperation policy. They also testify to the desire of the countries concerned not to remain outside the movement - which the negotiation and then signature of the Lomé Convention have significantly encouraged - towards the grouping of countries.

The Community must welcome the attitude adopted by these countries and show the interest it takes in them by adopting without delay appropriate procedures for an accelerated examination of any approaches already made or to be made. If the Community were unable to set in motion rapidly the procedures required for accession it would be disappointing the hopes pinned on it by these young States, for legal arguments in response to the confidence thus shown in us could be misinterpreted.

2. ACCELERATION OF THE ACCESSION PROCEDURE

The Contracting Parties to the Lomé Convention made express provision for the accession of new members.

As provided for in Articles 89 and 90 of the Convention, the accession of any country requires the approval of the ACP-EEC Council of Ministers. This Council, an institution established by the Convention, cannot meet until the Convention has entered into force - in other words until the internal ratification procedures have been completed by the Member States and by two-thirds at least of the ACP. The Commission nevertheless considers that it is politically desirable and legally possible to reduce the time-lag between the entry into force of the Convention and the accession of new Contracting Parties. To this end, advantage should be taken of the ratification period not only to organize briefing sessions

with the countries which have applied for accession but also to prepare all the necessary instruments so that these future ACP countries may become Contracting Parties to the Lomé Convention as soon as possible after its entry into force.

Interim trade arrangements similar to those existing in relations with the ACP since 1 July 1975 could also be considered.

Application of these principles presents different problems according to whether the applicant country has had OCT status or not.

2.1 The OCT and application of Article 89 of the Convention

For these countries the accession procedure is a simplified one. It comprises essentially:

approval of the request for accession by the ACP-EEC Council of Ministers¹;

accession by depositing an instrument of accession with the Secretariat of the Council of the European Communities, which transmits a certified copy to the Secretariat of the ACP States and gives notice thereof to the Signatory States.

A decision by the Council of the European Communities, taken under Article 1 of the Internal Financial Agreement, will increase the amounts provided in that Agreement for the ACP as a body, at the same time reducing by a corresponding sum the amounts of aid provided for the OCT. Since accession to the Convention does not involve other decisions by the Council of the European Communities or ratification by the Member States and the other ACP, it may take place very rapidly once the Convention itself has entered into force.

¹ A Joint Declaration annexed to the Lomé Convention expresses a position favourable to accession by such countries (see Annex VI to the ACP-EEC Lomé Convention).

For the period to be covered between from accession to independence by the OCT concerned and the formal request to join to accession to the Convention, interim measures will have to be taken in order to avoid any break in the Community's relations with those countries; these measures will depend in particular on the date of independence in relation to the date of entry into force of the Lomé Convention. The Commission will make appropriate proposals in each case.

2.2 Other applicant countries (application of Article 90 of the Convention)

Here the accession procedure differs from that for the OCT in that it involves - in addition to approval of the request by the ACP-EEC Council of Ministers - the conclusion and ratification of two agreements:

the accession agreement between the applicant State and the Community;

the agreement between Member States increasing the amount of the EDF by amending the Internal Agreement on the financing and administration of Community aid.

In view of the complexity of the procedure and the long time it inevitably takes it is desirable to start the preparatory work as soon as possible. The Commission therefore proposes the following procedure:

- (i) When an applicant country makes its request to the Contracting Parties to the Lomé Convention they should, on a case-by-case basis, give an ad hoc opinion on the request without waiting for the entry into force of the Convention.
- (ii) If an opinion in favour of opening negotiations is expressed by both sides (ACP and Community), the Community and the applicant country should negotiate the accession agreement, with the Commission as the negotiator on the European side, under the same conditions as during the 1973-75 negotiations.
- (iii) The negotiations should be conducted in close contact with the ACP States, which would be kept informed in the course of appropriate exchanges of view. Although there is no legal obligation to do so under the Convention, the ACP Group should be consulted on the accession agreement before it is concluded. The accession agreement would then be signed and the procedures required for ratification initiated.

- (iv) In any case the accession agreement would not enter into force until formal approval of the request for accession had been given by the ACP-EEC Council of Ministers, convened for this purpose, once the Lomé Convention itself had entered into force.
- (v) Concurrently with the negotiations conducted with the applicant State the Member States would agree on provisions amending the Internal Financial Agreement with a view to accomplishing the procedures required for ratification of those provisions at the same time as those required for the accession agreement.
- (vi) Lastly, once the accession agreement had been signed the Community and the applicant country could - without waiting for the agreement to be ratified - agree to apply independently in their trade the arrangements provided for by the agreement, as has been done between the Community and the forty-six ACP since 1 July 1975.

The opportunities of accelerating the procedure for the accession of new independent States to the Lomé Convention are therefore very real. The Commission recommends that these opportunities be seized so that the countries in question do not have to remain excluded from cooperation between the Community and the ACP States any longer than is necessary.

With regard to the request for accession by the Democratic Republic of São Tomé and Príncipe, the Commission will, after informing the ACP States, begin exploratory talks with that country as soon as possible. When the exploratory talks are completed, it will present a communication to the Council in order to obtain directives opening the way for negotiations with the applicant country, in agreement with the ACP States.

1. The potential financial implications of this communication would be a possible slight reduction of budget revenue as duty-free entry would be granted to certain third countries which would become members of the Lomé Convention.

However, in view of the very small volume of Community imports from the countries in question and the limited number of such countries, the impact resulting from the non-collection of certain customs duties and levies would be minimal; the amount would depend on the fluctuations which the volume and value of the imports in question are likely to undergo.

2. It is recalled that in the successive negotiations for the Yaoundé I, Yaoundé II and Lomé Conventions the amount of the Community's financial aid was not fixed until the very last stage. Accordingly, the Commission declines to state an opinion on the possible financial implications of this communication as concerns the European Development Fund and the European Investment Bank, any such implications to be covered by an additional financial contribution from the Member States.