II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 25 July 1991

on the association of the overseas countries and territories with the European Economic Community

(91/482/EEC)

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 on the financing and administration of Community aid signed in Brussels on 16 July 1990 (hereinafter referred to as 'the Internal Agreement'),

Having regard to the proposal from the Commission (1),

Having regard to the opinion of the European Parliament (2),

Whereas the provisions applicable to the association of the overseas countries and territories (hereinafter referred to as 'the OCT') with the European Economic Community must be laid down for a further period; whereas these provisions apply to the territories for which the French Republic has responsibility, the countries and territories for which the United Kingdom has responsibility, the countries for which the Kingdom of the Netherlands has responsibility and, in part, to Greenland;

Whereas these provisions form part of the European Economic Community's efforts to contribute towards international cooperation and to the solution of international problems of an economic, social and cultural nature, in conformity with the aspirations of the international community towards a new, more just and more balanced international economic order; whereas these efforts led in particular to the signing of the fourth ACP-EEC Convention in Lomé on 15 December 1989, hereinafter referred to as 'the Convention'; whereas, in view of the many similarities between the OCT and many of the ACP States, and while respecting their differing status, the provisions for the OCT should be adopted for the same period as for the ACP States;

Whereas the Community market has long been open to products originating in the OCT and in the ACP States; whereas, having regard to the special relationship between the Community and the OCT, based on the provisions of the Treaty and in particular on Part Four thereof, the said provisions should be improved by affording the OCT a greater degree of flexibility with regard to the rules of origin for products originating in the OCT by adopting new provisions for certain products not originating in the OCT;

Whereas the OCT's development requirements and the promotion of their industrial development on the other hand justify their retaining the possibility of levying customs duties and imposing quantitative restrictions and adopting, by way of derogation, legislation to assist the local population and local activities with a view to promoting or maintaining local employment;

(1) OJ No C 95, 11. 4. 1991, p. 1.
(2) OJ No C 183, 15. 7. 1991.

Whereas special provisions should be adopted for rum, arrack and tafia;

Whereas this Decision in no way prejudices the special arrangements established for the import of products originating in the OCT into Spain and Portugal set out in the Annex to Council Decision 86/47/EEC of 3 March 1986 establishing arrangements for trade between Spain and Portugal on the one hand and the overseas countries and territories (OCT) on the other [1], as last extended by Decision 90/699/EEC [2];

Whereas the Community's contribution towards solving the economic and social problems of the OCT and the ACP States encourages it to strengthen relations between the OCT and the ACP States in various areas of cooperation, including trade;

Whereas, moreover, some OCT are in the same geographical area as overseas departments and ACP States; whereas the development of different parts of the same geographical area, which have similar features and are subject to similar constraints, should be achieved notably through the implementation of joint regional projects, whatever the status of the entities under Community law, so permitting economies of scale and strengthening regional cooperation between the partners concerned; whereas the Community has already created the instruments, notably financial instruments, to implement this cooperation, in the case of the overseas departments by means of Regulation (EEC) No 2052/88 [3] on the tasks of the Structural Funds and the operations of the European Investment Bank (hereinafter referred to as 'the Bank'); subsequent texts and Council Decision 89/687/EEC of 22 December 1989 establishing a programme of options specific to the remote and insular nature of the French overseas departments (Poseidom) [4], and, in the case of the ACP States, by means of the Convention and the Internal Agreement;

Whereas these neighbouring entities are traditionally confronted with similar problems, regardless of their differences in status; whereas regional cooperation tailored to local conditions requires more direct dialogue between the parties concerned; whereas encouragement should therefore be given to regional consultation procedures between overseas departments, OCT and ACP States, in close liaison with the Member States concerned in the case of overseas departments and the OCT;

Whereas, during the negotiations on the Convention, the Community improved a number of the provisions concerning areas and instruments of cooperation with the ACP States; whereas provisions for the OCT should be improved on the same lines;

Whereas, in order to facilitate the implementation of this Decision in the future and to ensure that financial aid is distributed as fairly as possible, aid should be allocated among the territories for which the French Republic has responsibility, the countries for which the Kingdom of the Netherlands has responsibility and the countries and territories for which the United Kingdom has responsibility; whereas lessons should be drawn from past experience and the programming and implementation procedures of development finance cooperation speeded up as much as possible;

Whereas there is general recognition of the active participation of local authorities of both the Community regions and of non-member countries in the implementation of common policies or in relations with the Community; whereas the association with the OCT has no provision for such participation, apart from the implementation of development finance cooperation in some OCT or in a more general way in others; whereas the participation of elected representatives of the population concerned should be stepped up, while respecting the constitutions of the Member States responsible for the OCT; whereas the principle of partnership between the Commission, the Member State and the country or territory meets this double objective;

Whereas various regulations adopted with a view to the completion of the single market are not applicable in the OCT but it may be advisable to examine ways of partially or totally extending them to the OCT, notably in the partnership framework;

Whereas Article 362 of the Convention makes provision for a country or territory referred to in Part Four of the Treaty that becomes independent to accede to the Convention; whereas it is therefore necessary to make provision for possible amendment of this Decision; whereas Article 1 of the Internal Agreement provides that where a country or territory which has become independent accedes to the Convention, the financial aid allocated to the OCT from the European Development Fund shall, by decision of the Council, be reduced and the amounts allocated to the ACP States correspondingly increased,

HAS DECIDED AS FOLLOWS:

(1) OJ No L 63, 5. 3. 1986, p. 95.
(2) OJ No L 365, 28. 12. 1990, p. 79.
(3) OJ No L 185, 15. 7. 1988, p. 9.
(4) OJ No L 399, 30. 12. 1989, p. 39.

PART ONE

GENERAL PROVISIONS OF EEC-OCT COOPERATION

Chapter 1

Objectives and principles of cooperation

Article 1

The aim of this Decision is to promote and accelerate the economic, cultural and social development and to strengthen the economic structures of the OCT listed in Annex I.

Article 2

The Community shall provide support for the OCT's efforts to achieve comprehensive development based on their cultural and social values, their human capacities, their natural resources and their economic potential in order to promote the OCT's social, cultural and economic progress and the well-being of their populations through the satisfaction of their basic needs, the recognition of the role of women and the enhancement of people's capacities, with respect for their dignity.

Such development shall be based on a sustainable balance between economic objectives, the rational management of the environment and the enhancement of natural and human resources.

Article 3

Cooperation shall be directed towards development centred on man, the main protagonist and beneficiary of development, which thus entails respect for, and promotion of, all human rights. Cooperation operations shall thus be conceived in accordance with the positive approach, where respect for human rights is recognized as a basic factor of real development and where cooperation is conceived as a contribution to the promotion of these rights.

The role and potential of initiatives taken by individuals and groups shall also be recognized and fostered in order to achieve in practice real participation of the population in the development process.

Article 4

The Community and the OCT shall give special importance and high priority to regional cooperation and integration. In this context, the Community shall offer effective support for the OCT's efforts to organize themselves into regional groupings and to step up their cooperation at regional and inter-regional level with a view to promoting a more just and more balanced international economic order.

Article 5

The Community acknowledges the need to accord special treatment to the least-developed OCT and to take account of the specific difficulties confronting them. It shall pay special attention to improving the living conditions of the poorest sections of the population.

Cooperation shall comprise, *inter alia*, special treatment when determining the volume of financial resources and the conditions attached thereto in order to enable the least-developed OCT to overcome structural and other obstacles to their development.

Article 6

Within the scope of their respective responsibilities, the authorities participating in the partnership framework referred to in Article 10 shall examine periodically the results of the implementation thereof and provide any necessary impetus and opinions for the attainment of the objectives of this Decision.

Any questions that might directly hamper the effective attainment of the objectives of this Decision may be raised in the context of this procedure.

Chapter 2

Decentralized cooperation and partnership

Article 7

In order to encourage all parties from the OCT and the Community which are in a position to contribute to the autonomous development of the OCT to put forward and implement initiatives, cooperation shall also support, within limits laid down by the relevant OCT authorities, development operations put forward by economic, social and cultural organizations in the framework of decentralized cooperation, in particular where they combine the efforts and resources of organizations from the OCT

and their counterparts from the Community. This form of cooperation shall be aimed in particular at making the capabilities, original operating methods and resources of such parties available to the development of the OCT.

The parties referred to in this Article are decentralized public authorities, rural and village groupings, cooperatives, firms, trade unions, teaching and research centres, non-governmental development organizations, various associations and all groups and parties which are able to, and wish to, make their own spontaneous and original contribution to the development of OCT.

Article 8

Cooperation shall encourage and support the initiatives of the OCT parties referred to in Article 7, provided they correspond with the priorities, guidelines and development methods adopted by the relevant authorities of the OCT concerned. In this framework, cooperation shall support either the independent activities of OCT parties or the activities of OCT parties which are combined with support from similar parties from the Community which make their capabilities, experience, technological and organizational capacities or financial resources available to them.

Cooperation shall encourage parties from the OCT and the Community to provide supplementary financial and technical resources for the development effort. Cooperation may provide decentralized cooperation operations with financial and/or technical support drawn from the resources provided for in this Decision under the conditions laid down in Article 9.

This form of cooperation shall be organized in accordance with the role and the prerogatives of the public authorities of the OCT.

Article 9

Decentralized cooperation operations may be supported through the instruments of development finance cooperation, with the approval of the relevant authorities of the OCT concerned, preferably from the programming stage, of the principle of and the conditions for providing support for this form of cooperation. Such support shall be provided to the extent to which it is necessary for the successful implementation of the proposed operations provided the usefulness of the latter has been recognized and in accordance with the provisions for financial and technical cooperation. Projects under this form of cooperation may be linked, or not, with programmes in the focal sectors of the indicative programmes, with priority for those linked to the focal sectors.

Article 10

With the aim of enabling the competent local authorities of the OCT to take greater part, in the framework of the respective constitutions of the Member States having responsibility for them, in giving effect to the principles of the EEC-OCT association, while respecting the powers of the respective central authorities of the Member States concerned, a consultation procedure based on the principle of partnership between the Commission, the Member State and the OCT is hereby set up.

This partnership, the detailed provisions for which are set out in Articles 234 to 236 of this Decision, shall provide the opportunity for examining what has been achieved in the association and discussing any problems arising in relations between the OCT and the Community.

PART TWO

THE AREAS OF EEC-OCT COOPERATION

TITLE I

ENVIRONMENT

Article 11

1. In the framework of this Decision, the protection and the enhancement of the environment and natural resources, the halting of the deterioration of land and forests, the restoration of ecological balances, the preservation of natural resources and their rational exploitation are basic objectives that the OCT concerned shall strive to achieve with Community support with a view to bringing an immediate improvement in the living conditions of their populations and to safeguarding those of future generations.

2. The Community recognizes that the existence of some OCT is under threat as a result of a rapid

deterioration in the environment that hinders any development efforts, in particular those aimed at achieving the priority objectives of food self-sufficiency and food security.

For many OCT, efforts to halt this deterioration of the environment and conserve natural resources are imperative and call for the preparation and implementation of coherent modes of development that have due regard for ecological balances.

Article 12

The dimension of the environmental problem and of the means to be deployed mean that operations will have to be carried out in the context of overall, long-term policies, drawn up and implemented by the relevant authorities of the OCT concerned at local, national, regional or international level with international support.

To this end, the Community shall give priority to:

— a preventive approach aimed at avoiding harmful effects on the environment as a result of any programme or operation,

— a systematic approach that will ensure ecological viability at all stages, from identification to implementation,

— a trans-sectoral approach that takes into account not only the direct but also the indirect consequences of the operations undertaken.

Article 13

The protection of the environment and natural resources requires a comprehensive approach embracing the social and cultural dimensions.

In order to ensure that this specific dimension shall be taken into account, attention shall be given to incorporating suitable educational, training, information and research schemes in projects and programmes.

Article 14

Cooperation instruments appropriate to environmental needs shall be designed and implemented.

Where necessary, both qualitative and quantitative criteria may be used. Jointly approved check-lists, adopted, where appropriate, in the course of the partnership consultations provided for in Articles 234 to 236, shall be used to help estimate the environmental viability of proposed operations, whatever their scale. Environmental impact assessment shall be carried out as appropriate in the case of large-scale projects and those posing a significant threat to the environment and should, as a minimum:

— describe the measures planned to avoid or reduce any major adverse consequences and, where possible, to remedy any such consequences,

— provide the necessary information for identifying and evaluating the main effects the project is likely to have on the environment.

For the proper integration of environmental considerations, physical inventories, where possible translated into accounting terms, shall be drawn up.

The implementation of these instruments has to ensure that, should an adverse environmental impact be foreseen, the necessary corrective measures are formulated in the early stage of the preparation of the proposed project or programme so that it can go ahead in accordance with the planned timetable, though improved in terms of environmental and natural resource protection.

Article 15

The Community, desirous of bringing real protection and effective management to the environment and natural resources, considers that the areas of EEC-OCT cooperation covered in this part of this Decision must be systematically examined and appraised in this light.

In this spirit, the Community shall support efforts made by the relevant OCT authorities at local, national, regional and international level and also operations mounted by intergovernmental and non-governmental organizations in furtherance of local, national and intergovernmental policies and priorities.

Article 16

1. The Community undertakes, for its part, to make every effort to ensure that international movements of hazardous waste and radioactive waste are generally controlled, and emphasizes the importance of efficient international cooperation in this area.

With this in view, the Community shall prohibit all direct or indirect export of such waste to the OCT while at the same time the relevant authorities of the OCT shall prohibit the direct or indirect import into their territory of such waste from the Community or from any other country, without prejudice to specific international

undertakings concerning these two areas that have been made, or may be made, in future in the competent international forums.

These provisions shall not prevent a Member State to which an overseas country or territory has chosen to export waste for processing from returning the processed waste to the overseas country or territory of origin.

The Community and, where necessary, the relevant authorities of the OCT shall expedite adoption of the necessary internal legislation and administrative regulations to implement this undertaking.

2. The relevant authorities of the OCT undertake to monitor strictly the implementation of the prohibition measures referred to in the second subparagraph of paragraph 1.

3. The term 'hazardous waste' within the meaning of this Article shall cover categories of products listed in Annexes 1 and 2 to the Basle Convention on the Control of Transboundary Movements of Hazardous Wastes and their Disposal.

As regards radioactive waste, the applicable definitions and thresholds shall be those which will be laid down in the framework of the International Atomic Energy Agency (IAEA). In the meantime, the said definitions and thresholds shall be those specified in Annex VI.

Article 17

At the request of the relevant authorities of the OCT, the Community shall provide available technical information on pesticides and other chemical products with a view to helping the OCT develop or reinforce a suitable and safe use of these products.

Where necessary and in accordance with the provisions for development finance cooperation, technical assistance can be given in order to ensure conditions of safety at all stages, from production to disposal of such products.

Article 18

The Community and the relevant authorities of the OCT recognize the value of exchanging views, using consultation machinery provided for in this Decision, on major ecological hazards, whether on a planetary scale (such as the greenhouse effect, the deterioration of the ozone layer, tropical forests, and so on), or of a more specific scope resulting from the application of industrial technology. Such consultations may be requested by the Commission, a Member State or the relevant authorities of an overseas country or territory, in so far as these hazards may in practice affect a country or territory, and shall be aimed at assessing the scope for joint action to be undertaken within the terms of this Decision. If necessary, the consultations will also provide for an exchange of views prior to discussions conducted on these subjects in the appropriate international forums.

TITLE II

AGRICULTURAL COOPERATION, FOOD SECURITY AND RURAL DEVELOPMENT

Article 19

Cooperation in the agricultural and rural sector, that is arable farming, livestock production, fisheries and forestry, shall be aimed, *inter alia*, at:

— continuously and systematically promoting viable and sustainable development based in particular on protection of the environment and the rational management of natural resources,

— supporting the OCT's efforts to increase their degree of self-sufficiency in food, in particular by strengthening their capacity to provide their populations with food of adequate quantity and quality and to ensure a satisfactory level of nutrition,

— reinforcing food security at local, regional and inter-regional level by stimulating regional trade flows of food products and improving coordination of the food policies of the countries concerned,

— guaranteeing the rural population incomes that will significantly improve their standard of living, in order to be able to cover their essential needs in the areas of food, education, health and living conditions,

— encouraging the active participation of the rural population, both men and women, in their own development by organizing small farmers into associations and integrating producers, men and women, more effectively into national and international economic activity,

— increasing the participation of women in their capacity as producers, notably by improving access to

all factors of production (land, inputs, credit, extension services and training),

— creating satisfactory living conditions and a satisfactory life style in the rural environment, notably by developing social and cultural activities,

— improving rural productivity, notably by transfers of appropriate technology and the rational exploitation of plant and animal resources,

— reducing post-harvest losses,

— reducing the workload of women by, *inter alia*, promoting suitable post-harvest and food-processing technologies,

— diversifying job-creating rural activities and expanding activities that back up production,

— improving production by on-the-spot processing of the products of arable and livestock farming, fisheries and forestry,

— ensuring a better balance between food crops and export crops,

— developing and strengthening agricultural research tailored to the natural and human environment of the country and the region and meeting extension service and food security requirements,

— in the context of the above objectives, protecting the natural environment particularly through specific operations to protect and conserve ecosystems.

Article 20

1. Operations to attain the objectives referred to in Article 19 shall be as varied and practical as possible, at local, regional and inter-regional level.

2. They shall be designed and deployed to implement the policies and strategies established by the relevant authorities of the OCT and respect their priorities.

3. Support shall be provided for such policies and strategies in the context of agricultural cooperation in accordance with the provisions of this Decision.

Article 21

1. Development of production calls for a rational stepping-up of animal and crop production and involves:

— improving farming methods for rain-fed crops while conserving soil fertility,

— developing irrigated crops, *inter alia*, through different types of agricultural water schemes (village water engineering, regulation of watercourses and soil improvement) ensuring optimum use and thrifty management of water which can be mastered by farmers and by local communities; operations shall also consist in the rehabilitation of existing schemes,

— improving and modernizing cultivation techniques and making better use of factors of production (improved varieties and breeds, agricultural equipment, fertilizers, plant treatment preparations),

— in the sphere of livestock farming, improving animal feed (more effective management of pasture, increased fodder production, more new water-points and repair of existing ones) and animal health, including the development of the infrastructure required for that purpose,

— better integration of arable and livestock farming,

— in the sphere of fisheries, modernizing fish-farming and developing aquaculture.

2. Other prerequisites for the development of production are:

— the extension of secondary and tertiary back-up activities for agriculture, such as the manufacture, modernization and promotion of agricultural and rural equipment and other inputs and, where necessary, their importation,

— the establishment or consolidation of agricultural savings and credit facilities adapted to local conditions in order to promote access to production factors for farmers,

— the encouragement of all policies and incentives for producers which are appropriate to local conditions with a view to greater productivity and to improving farmers' incomes.

Article 22

In order to ensure a return on output, agricultural cooperation shall contribute to:

— adequate means of preservation and suitable storage facilities for producers,

— effective control of disease, pests and other factors causing production losses,

— basic marketing arrangements underpinned by suitable organization of producers, with the necessary material and financial resources, and by adequate means of communication,

— flexible operation of marketing channels, taking account of every form of public or private initiative, to enable local markets, areas of the country with shortfalls and urban markets to be supplied, in order to cut down dependence on outside sources,

— facilities to prevent breaks in supplies (security storage) and guard against erratic price fluctuations (intervention storage),

— processing, packaging and marketing of products, particularly by developing artisanal and agro-industrial units, in order to adapt them to the trend of the market.

Article 23

Rural promotion measures shall involve:

— the organization of producers within associations or communities in order to enable them to derive more benefit from joint contracts and investment and jointly owned equipment,

— encouragement for the participation of women and for recognition of the active role they play as full partners in the rural production and economic development processes,

— the development of social and cultural activities (such as health, education and culture) essential for improving rural life styles,

— suitable extension service to train all farmers, both men and women,

— improvements in the training of instructors at all levels.

Article 24

Cooperation in agronomic and agrotechnical research shall contribute:

— to the development, in the OCT, of local and regional research capacities suited to the local natural, social and economic conditions of crop and animal production,

— in particular, to improving varieties and breeds, the nutritional quality of products and their packaging, and developing technology and processes accessible to the producers,

— to better dissemination of the results of research undertaken in an overseas country or territory, an ACP or non-ACP State and applicable in other OCT or other ACP States,

— to extension work in order to inform the greatest possible number of users of the results of such research,

— to promoting increased coordination of research, particularly at regional and international levels and implementing appropriate operations to achieve these objectives.

Article 25

Agricultural cooperation schemes shall be carried out in accordance with the detailed provisions and procedures laid down for development finance cooperation and in this context they may also cover the following:

1. under the heading of technical cooperation:

   — exchange of information between the Community, the OCT and the ACP States and between the OCT and the ACP States (on, for example, water use, intensive production techniques and the results of research),

   — exchange of experience between professionals working in such areas as credit and savings, cooperatives, mutual insurance, artisanal activities and small-scale industry in rural areas;

2. under the heading of financial cooperation:

   — supply of factors of production,

   — support for market regulation bodies, on the basis of a coordinated approach to production and marketing problems,

   — participation in the constitution of funds for agricultural credit facilities,

— opening of credit lines for farmers, farmers' trade organizations, artisans, women's groupings and small-scale industrial operators in rural areas, geared to their activities (such as supplies, primary marketing and storage), and also for associations implementing campaigns on specific themes,

— support for measures to combine industrial and trade skills in the OCT and the Community within artisanal or industrial units, for the manufacture of inputs and equipment and for such purposes as the maintenance, packaging, storage, transport and processing of products.

Article 26

1. Community measures aimed at food security in the OCT shall be conducted in the context of the food strategies or policies of the relevant authorities of the OCT concerned and of the development objectives which they lay down.

They shall be implemented, in coordination with the instruments of this Decision, in the framework of Community policies and the measures resulting therefrom with due regard for the Community's international commitments.

2. In this context, multiannual indicative programming may be carried out with the relevant authorities of the OCT which so wish, so that their food supplies can be better predicted.

Article 27

With regard to available agricultural products, the Community undertakes to ensure that export refunds can be fixed further in advance for all OCT in respect of a range of products drawn up in the light of their food requirements.

Advance fixing may be for one year and shall be applied each year for the duration of this Decision, it being understood that the level of the refund will be determined in accordance with the methods normally followed by the Commission.

Article 28

In implementing the provisions of this Title, special attention shall be paid to assisting and enabling the least-developed OCT to utilize them fully. At the request of the relevant authorities of the OCT concerned, particular attention shall be paid to the specific difficulties of these OCT in carrying out the policies or strategies established by the relevant authorities to strengthen their food self-sufficiency and food security. In this context, cooperation shall bear in particular on the productive sectors (including the supply of physical, technical and financial inputs), transport, marketing, packaging and the setting-up of storage infrastructure.

Article 29

At the request of their relevant authorities, the OCT may be eligible for the services of the Technical Centre for Agricultural and Rural Cooperation, the objectives and tasks of which are described in Article 53 of the Convention.

Any costs resulting from services provided by the Centre for the benefit of the OCT which make use of them shall be financed from the funds provided for in Article 154 for whichever of the three groups those OCT belong to.

TITLE III

DEVELOPMENT OF FISHERIES

Article 30

To encourage the development of the exploitation of the fishery resources of the OCT, all the mechanisms for assistance and cooperation provided for in this Decision, notably financial and technical assistance in accordance with the terms set out in Title III of Part Three, shall be applied to fisheries.

The priority objectives of such cooperation shall be to:

— improve knowledge of the fisheries environment and its resources,

— increase the means of protecting fishery resources and monitoring their rational exploitation,

— encourage the rational exploitation of the fishery resources of the OCT and the resources of high seas in which the OCT and the Community share interests,

— increase the contribution of fisheries including aquaculture and non-industrial fishing, to rural development, by giving importance to the role they play in strengthening food security, improving nutrition and the social and economic conditions of the communities concerned; this implies, *inter alia*, a recognition of and support for women's work at the post-harvest stage and in the marketing of fish,

— increase the contribution of fisheries to industrial development by increasing catches, output, processing and exports.

Article 31

Assistance from the Community for fisheries development shall include support in the following areas:

(a) fisheries production, including the acquisition of boats, equipment and gear, the development of infrastructure for rural fishing communities and the fishing industry and support for aquaculture projects, notably by providing specific lines of credit to appropriate OCT institutions for onlending to the operators concerned;

(b) fisheries management and protection, including the assessment of fish stocks and of aquacultural potential, the improvement of environmental monitoring and control and the development of the capacity of the relevant authorities of the OCT to manage rationally the fishery resources in the exclusive economic zones of the OCT;

(c) processing and marketing of fishery products, including the development of processing, collection, distribution and marketing facilities and operations; the reduction of post-harvest losses and the promotion of programmes to improve fish utilization and nutrition from fishery products;

(d) the training of OCT nationals in all areas of fisheries, the development and strengthening of OCT research capabilities and the promotion of regional cooperation in fisheries management and development.

Article 32

In implementing Articles 30 and 31, special care should be taken to enable the least-developed OCT to maximize their capabilities to manage their fishery resources.

Article 33

Conservation and the optimum use of the living resources of the sea shall be carried out through direct or regional cooperation or, where appropriate, through international organizations.

TITLE IV

COOPERATION IN THE FIELD OF COMMODITIES

Article 34

Cooperation with the OCT in the field of commodities shall take into account:

— the fact that the economies of a large number of OCT are highly dependent on their exports of primary products,

— the deteriorating situation of their exports in most cases, mainly as a result of the downward trend in world prices,

— the structural nature of the difficulties in many commodity sectors both within the economies of the OCT and at international level.

Article 35

The main objectives of cooperation in the field of commodities are:

— diversification, both horizontal and vertical, of the OCT economies, in particular through the development of processing, marketing, distribution and transport (PMDT), and

— improvement of the competitiveness of OCT commodities on world markets through the reorganization and rationalization of their production, marketing and distribution activities.

All appropriate means should be deployed to enable them to go as far as possible in the attainment of these objectives; to that end coordinated use should be made of the range of instruments and resources of this Decision.

Article 36

Cooperation operations in the field of commodities shall be directed towards developing international, regional and local markets; they shall be carried out in accordance with the detailed rules and procedures laid down in this Decision, notably those relating to development finance cooperation. In this context, they may also cover:

1. the enhancement of human resources, including in particular:

   — training programmes and courses for operators in the sectors concerned,

   — support for local or regional schools and training institutes specializing in the sector;

2. the fostering of investments by Community and OCT economic operators in the sector concerned, notably by means of:

   — information and awareness-raising campaigns directed at operators likely to invest in activities that diversify and add value to OCT commodities,

   — a more dynamic use of risk capital for firms wishing to invest in these PMDT activities,

   — utilization of the pertinent provisions on investment promotion, protection, financing and support;

3. the development and improvement of the infrastructure necessary for activities in the sector concerned, and notably transport and telecommunications networks.

Article 37

In pursuit of the objectives set out in Article 35, particular importance shall be attached to:

— ensuring that market signals, whether local, regional or international, are duly taken into account,

— taking account of the economic and social impact of the operations carried out,

— ensuring greater consistency at regional and international level between the strategies pursued by the various OCT concerned,

— seeking an effective distribution of resources between the various activities and operators in the production sectors concerned.

TITLE V

INDUSTRIAL DEVELOPMENT, MANUFACTURING AND PROCESSING

Article 38

In order to facilitate the attainment of the industrial development objectives of the OCT, it is important to ensure that an integrated and sustainable development strategy, which links activities in different sectors to each other, is evolved. Thus sectoral strategies for agricultural and rural development, manufacturing, mining, energy, infrastructure and services should be designed in such a way as to foster interlinkages within and between economic sectors with a view to maximizing local value added and creating, where possible, an effective capacity to export manfactured products, while ensuring the protection of the environment and natural resources.

These objectives shall be pursued by implementing, in addition to the specific provisions on industrial cooperation, the provisions on trade promotion for OCT products and private investments.

Article 39

Industrial cooperation, as a key instrument for industrial development, shall have as its objectives:

(a) the creation of the basis of and framework for effective cooperation between the Community and the OCT in the fields of manufacturing and processing, mineral resources development, energy resources development, transport and communications;

(b) the promotion of conditions conducive to industrial enterprise development, and local and external investment;

(c) improvement of capacity utilization and rehabilitation of existing industrial undertakings which are potentially viable, in order to restore the productive capacities of OCT economies;

(d) fostering the creation of and participation in enterprises by OCT nationals, especially small and medium-sized enterprises that produce and/or use local inputs; promotion of new enterprises and strengthening of existing ones;

(e) support for the establishment of new industries to supply the local market in a cost-effective manner and ensure the growth of the non-traditional export sector in order to increase earnings, provide employment opportunities and increase real incomes;

(f) promoting increasingly close relations in the industrial field between the Community and the OCT, and in particular further encouraging the speedy establishment of EEC-OCT industrial joint ventures;

(g) promoting business associations in the OCT as well as other institutions for industrial enterprise and business development.

Article 40

The Community shall assist the OCT in the improvement of their institutional framework, reinforcement of their financing institutions and the estab-

lishment, rehabilitation and improvement of industry-related infrastructure. The Community shall equally assist the OCT in their efforts to integrate industrial structures at regional and inter-regional level.

Article 41

On the basis of a request from the relevant authorities of a country or territory, the Community shall provide the assistance required in the field of industrial training at all levels, bearing notably on the evaluation of industrial training needs and the establishment of corresponding programmes, the setting-up and operation of local or regional OCT industrial training establishments, training for OCT nationals in appropriate establishments, on-the-job training both in the Community and in the OCT and also cooperation between industrial training establishments in the Community and their counterparts in the OCT, and between the latter and those of other developing countries.

Article 42

In order to achieve the objectives of industrial development, the Community shall assist in the establishment and expansion of all types of viable industry which have been identified by the relevant authorities of the OCT as important in terms of their industrialization objectives and priorities.

In this context the following areas merit particular attention:

(i) manufacturing and processing of primary products:

(a) industries processing, on a local or regional basis, raw materials for export;

(b) industries based on local needs and resources, focused on local and regional markets and mainly small and medium-sized markets; industries geared to the modernization of agriculture, the efficient processing of agricultural products and the manufacture of agricultural inputs and tools;

(ii) engineering, metallurgical and chemical industries:

(a) engineering enterprises for the production of tools and equipment primarily tailored to maintaining existing plant and equipment in the OCT. These enterprises should, as a matter of priority, support the manufacturing and processing sector, the major export sectors, and small and medium-sized enterprises directed at satisfying basic needs;

(b) metallurgical industries based on the mining products of the OCT, aimed at the secondary processing of mining products to supply OCT engineering and chemical industries;

(c) chemical industries, particularly on a small and medium scale, aimed at the secondary processing of mineral products to supply the other branches of industry, and also the agricultural and health sectors;

(iii) industrial rehabilitation and capacity utilization: the restoration, upgrading, reorganization, restructuring and maintenance of existing potentially viable industrial capacities. Special emphasis should be put in this respect on industries with a low import content that provide up-stream and down-stream linkages and have a favourable effect on employment. Rehabilitation activities should be targeted at the creation of conditions necessary to make enterprises being rehabilitated self-sustaining.

Article 43

The Community shall assist the OCT to develop, during the period of application of this Decision, as a matter of priority, viable industries, as defined in Article 42, in accordance with the capacities and decisions of the relevant authorities of each country or territory and their respective endowments, taking into account the adjustment of industrial structures taking place in the OCT, the Community and throughout the world.

Article 44

The Community shall contribute in a spirit of mutual interest to the development of EEC-OCT, intra-OCT and OCT-ACP cooperation between enterprises by way of information and industrial promotion activities.

The aim of such activities shall be to intensify the regular exchange of information, organize the contacts required in the industrial sphere between industrial policy-makers, promoters and economic operators from the Community, the OCT and the ACP States, carry out studies, notably feasibility studies, facilitate the establishment and operation of OCT industrial promotion bodies and foster

joint investment, subcontracting arrangements and any other form of industrial cooperation between enterprises in the Member States of the Community, in the OCT and in the ACP States.

Article 45

The Community shall contribute to the establishment and development of small and medium-sized enterprises in the artisanal, commercial, service and industrial sectors in view of the essential role that these enterprises play in the modern and informal sectors in building up a diversified economic fabric and in the general development of the OCT, and in view of the advantages they offer as regards the acquisition of skills, the integrated transfer and adaptation of appropriate technology and opportunities for taking the best advantage of local manpower. The Community shall also help with sectoral evaluation and the establishment of action programmes, with the setting-up of appropriate infrastructure, the establishment, strengthening and operation of institutions providing information, promotion, extension, training, credit or guarantee and transfer of technology facilities.

The Community and the relevant authorities of the OCT shall encourage cooperation and contact between small and medium-sized enterprises in the Member States, the OCT and the ACP States.

Article 46

With a view to assisting the OCT to develop their technological base and indigenous capacity for scientific and technological development and facilitating the acquisition, transfer and adaption of technology on terms that will bring about the greatest possible benefits and minimize costs, the instruments of development finance cooperation may be used to contribute to:

(a) the establishment and strengthening of industry-related scientific and technical infrastructure in the OCT;

(b) the drawing-up and implementation of research and development programmes;

(c) the identification and creation of opportunities for collaboration among research institutes, institutions of higher learning and enterprises of the OCT, the ACP States, the Community, the Member States and other countries;

(d) the establishment and promotion of activities aimed at the consolidation of appropriate indigenous technology and the acquisition of relevant foreign technology, in particular that of other developing countries;

(e) the identification, evaluation and acquisition of industrial technology, including the negotiation on favourable terms and conditions of foreign technology, patents and other industrial property, in particular through financing or through other suitable arrangements with firms and institutions within the Community;

(f) providing advisory services for the preparation of regulations governing the transfer of technology and for the supply of available information, in particular on the terms and conditions of technology contracts, the types and sources of technology, and the experience of the OCT and other countries with the use of certain types of technology;

(g) the promotion of technology cooperation between OCT and between them and the ACP States or other developing countries, including support to research and development units, in particular at regional level, in order to make the best use of any particularly appropriate scientific and technical facilities they may possess;

(h) facilitating, wherever possible, access to and use of documentary and other data sources available in the Community.

Article 47

In order to enable the OCT to obtain full benefit from the trade arrangements and other provisions of this Decision, promotion schemes shall be undertaken for the marketing of OCT industrial products on both Community and other external markets, and also in order to stimulate and develop trade in industrial products among the OCT and between the OCT and ACP States. Such schemes shall cover market research, marketing and the quality and standardization of manufactured goods, in accordance with Articles 152 and 153 and taking into account Articles 84 and 85.

Article 48

At the request of their relevant authorities, the OCT may be eligible for the services of the Centre for the Development of Industry (CDI), the objectives and activities of which are described in Articles 89 and 90 respectively of the Convention, or those of the Euro Business Information Centres set up under the Community's business promotion policy.

Any costs resulting from services provided by the Centre or the Euro Business Information Centres for the benefit

of the OCT shall be financed from the funds provided for in Article 154 for whichever of the three groups those OCT belong to.

Article 49

1. In implementing this Title, the Community shall pay special attention to the specific needs and problems of the least-developed OCT in order to establish the basis for their industrialization (the formulation of industrial policies and strategies, economic infrastructure and industrial training), notably with a view to adding value to raw materials and other local resources in the following fields, in particular:

— processing of raw materials,

— development, transfer and adaptation of technologies,

— development and financing of schemes in favour of small and medium-sized enterprises,

— development of industrial infrastructure and energy and mining resources,

— adequate training in the scientific and technical areas,

— production of equipment and inputs for the rural sector.

Such operations may be implemented with assistance from the CDI or the Euro Business Information Centres.

2. At the request of one or more of the least-developed countries or territories, the CDI shall grant special assistance for identification of on-the-spot industrial promotion and development possibilities, notably in raw materials processing and the production of equipment and inputs for the rural sector.

Article 50

In order to implement industrial cooperation, the Community shall help carry out programmes, projects and operations submitted to it on the initiative or with the agreement of the relevant authorities of the OCT. To this end, it shall use all the means provided in this Decision, notably those at its disposal under development finance cooperation and, in particular, those which are the responsibility of the Bank, without prejudice to operations to assist OCT in mobilizing finance from other sources.

Industrial cooperation programmes, projects and operations which involve Community financing shall be implemented in conformity with Title III of Part Three of this Decision, having regard to the particular characteristics of aid operations in the industrial sector.

TITLE VI

MINING DEVELOPMENT

Article 51

The main objectives of mining development shall be to:

— exploit all types of mineral resources in a way which ensures the profitability of mining operations in both export and local markets, while also meeting environmental concerns, and

— enhance the potential of human resources,

with a view to promoting and expediting diversified economic and social development.

Article 52

At the request of the relevant authorities of one or more of the OCT, the Community shall carry out technical assistance or training activities to strengthen their scientific and technical capacity in the field of geology and mining in order that they may derive greater benefit from available know-how and direct their exploration and prospecting programmes accordingly.

Article 53

Having regard to local, national and external economic considerations and with a view to diversification, the Community shall cooperate, as appropriate, through its technical and financial assistance programmes with the OCT in their prospecting and exploration efforts at all stages, both onshore and on the continental shelf as defined in international law.

Where appropriate, the Community shall also give its technical and financial assistance to the establishment of local, national or regional exploration funds in the OCT.

Article 54

With the aim of supporting efforts to exploit the OCT's mining resources, the Community shall contribute towards the support of projects to rehabilitate, maintain, rationalize and modernize economically viable production units in order to make them more operational and more competitive.

It shall also contribute to the identification, drawing-up and implementation of new viable projects to an extent compatible with investment and management capacities as well as market trends, taking particular account of the financing of feasibility and pre-investment studies.

Particular attention shall be accorded to:

— operations to enhance the role of small and medium-scale projects, so promoting local mining enterprises with particular emphasis on minerals for industry and agriculture, destined notably for the local or regional markets, and also new products, and

— operations to protect the environment.

Cooperation shall also support the efforts of the relevant authorities of the OCT to:

— build up supporting infrastructure,

— take measures to ensure that mining development makes the greatest possible contribution to the producer countries' social and economic development, such measures including the optimal use of mining revenue and the integration of mining development into industrial development and into an appropriate policy of land use planning,

— encourage investment,

— promote regional cooperation.

Article 55

In order to contribute to the objectives set out above, the Community shall be prepared to give its technical and financial assistance to help with the exploitation of the OCT's mining protential in accordance with the procedures appropriate to each of the instruments at its disposal and according to the provisions of this Decision.

In the sphere of research and investment preparatory to the launching of mining projects, the Community may give assistance in the form of risk capital, possibly in conjunction with contributions of capital from the OCT concerned and other sources of financing, in accordance with the procedures laid down in Article 156.

The resources referred to in these provisions may be supplemented, for projects of mutual interest, by:

(a) other Community financial and technical resources;

(b) action aimed at the mobilization of public and private capital, including cofinancing.

Article 56

The Bank may, in accordance with its Statute, commit its own resources on a case-by-case basis beyond the amount fixed in Article 154 for mining investment projects recognized by the relevant authorities of the country or territory concerned and by the Community as being of mutual interest.

TITLE VII

ENERGY DEVELOPMENT

Article 57

In view of the seriousness of the energy situation in the majority of the OCT, owing partly to the crisis caused in many countries by dependence on imported petroleum products, and in view of the effects the use of fossil fuels have on the climate, there should be cooperation in this area with a view to finding solutions to their energy problems.

Particular emphasis shall be placed on energy programming, operations for saving and making efficient use of energy, reconnaissance of energy potential and the economically and technically appropriate promotion of new and renewable sources of energy.

Article 58

Cooperation in the field of energy shall promote the development of the OCT's conventional and non-conventional energy potential and their self-sufficiency.

The main objectives of energy development shall be to:

(a) promote economic and social development by exploiting and developing local and regional energy resources in an appropriate manner from the technical, economic and environmental viewpoints;

(b) make energy production and use more efficient and, where the potential exists, increase energy self-sufficiency;

(c) encourage increased use of alternative, new and renewable energy sources;

(d) improve living conditions in urban, outlying and rural areas and propose solutions to these areas' energy problems that are appropriate to local needs and resources.

Article 59

In order to attain the abovementioned objectives, energy cooperation schemes may, at the request of the relevant authorities of one or more of the OCT concerned, be focused on:

(a) collection, analysis and dissemination of relevant information;

(b) strengthening the OCT's management and control of their energy resources in line with their development objectives in order to enable them to appraise energy demand and supply options and to achieve strategic energy planning, *inter alia*, by supporting energy programming and providing technical assistance for departments responsible for the planning and execution of energy policies;

(c) analysing the energy implications of development projects and programming, taking account of the energy savings required and of opportunities for primary source substitution; in this context, operations shall be designed to increase the role played by new and renewable resources, particularly in rural areas, through programmes and projects tailored to local needs and resources;

(d) implementing suitable programmes involving small and medium-sized energy development projects;

(e) enhancing investment potential for the exploration and development of local and regional energy sources and also the development of sites of exceptional energy production permitting the establishment of energy-intensive industry;

(f) promoting research, adaptation and dissemination of appropriate technology as well as the training needed to meet energy-related manpower needs in the energy sector;

(g) stepping up the OCT's research and development activities, particularly as regards the development of new and renewable sources of energy;

(h) upgrading the basic infrastructure necessary for the production, transmission and distribution of energy with particular emphasis on rural electrification;

(i) encouraging cooperation among OCT and between the OCT and ACP States in the energy sector, notably cooperation between the OCT, ACP States and other neighbouring States receiving Community aid.

Article 60

The objectives referred to above may be pursued with the financial and technical assistance of the Community to help with the exploitation of the OCT's energy potential in accordance with the procedures laid down for each of the instruments at the Community's disposal and according to the provisions of this Decision.

In the sphere of research and investment preparatory to the launching of energy projects, the Community may give assistance in the form of risk capital, possibly in conjunction with contributions of capital from the Member States and the OCT concerned and other sources of financing, in accordance with the procedures laid down in Article 156.

The resources referred to in these provisions may be supplemented, for projects of mutual interest, by:

(a) other Community financial and technical resources;

(b) action aimed at the mobilization of public and private capital, including cofinancing.

Article 61

The Bank may, in accordance with its Statute, commit its own resources on a case-by-case basis beyond the amount fixed in Article 154 for energy investment projects recognized by the relevant authorities of the country or territory concerned and by the Community as being of mutual interest.

TITLE VIII

ENTERPRISE DEVELOPMENT

Article 62

1. The Community stresses that:

(i) enterprises constitute one of the main instruments for achieving the objectives of strengthening the economic fabric, encouraging inter-sectoral integration and increasing employment, incomes and the level of skills;

(ii) present efforts by the relevant authorities of the OCT to restructure their economies should be complemented by efforts to strengthen and enlarge their productive base. The enterprise sector should play an important part in the OCT's strategies to revive growth;

(iii) a stable and propitious environment should be created together with an effective national and local financial sector with a view to reinvigorating the enterprise sector in the OCT and to encouraging European investment;

(iv) the private sector needs to be made more dynamic and play a greater role, in particular through small and medium-sized enterprises, which are better suited to conditions prevailing in the OCT economies. Micro-firms and crafts should equally be encouraged and supported;

(v) private foreign investors complying with the objectives and priorities of the association should be encouraged to participate in the development efforts of the OCT. Fair and equitable treatment should be accorded to such investment as well as a propitious, secure and predictable investment climate;

(vi) the fostering of entrepreneurship in the OCT is crucial for unlocking the OCT's considerable potential.

2. Efforts should be made to channel an increased proportion of the Decision's financial resources available under the Decision towards the encouragement of entrepreneurship and investment and to directly productive activities.

Article 63

In pursuit of the abovementioned objectives, the full range of instruments provided for by this Decision, including technical assistance, should be deployed in the following areas with a view to sustaining private-sector development:

(a) support for the improvement of the legal and fiscal framework for business, and development of a greater role for professional organizations and chambers of commerce in the process of enterprise development;

(b) direct assistance for the creation and the development of business (specialized business start-up services; assistance for the redeployment of ex-public sector employees; assistance for technology transfers and development; management services and market research);

(c) the development of services in support of the business sector so as to provide enterprises with advisory services in the legal, technical and managerial fields;

(d) specific programmes for training and developing the capacity of individual entrepreneurs, particularly in the small-scale and informal sectors.

Article 64

In order to support the development of savings and local financial sectors, the following areas of action merit special attention:

(a) assistance for the mobilization of local savings and the development of financial intermediaries;

(b) technical assistance for the restructuring and reform of financial institutions.

Article 65

With a view to assisting enterprise development in the OCT, the Community shall provide technical and financial assistance, subject to the conditions laid down in Title III of Part Three.

TITLE IX

DEVELOPMENT OF SERVICES

Chapter 1

Objectives and principles of cooperation

Article 66

1. Services are important for the formulation of development policies, and cooperation in this sphere needs to be stepped up.

2. The Community shall support the efforts of the relevant authorities of the OCT to increase their domestic capacity to provide services with a view to improving the working of their economies, relieving balance-of-payment constraints and stimulating the process of regional integration.

3. The object is to ensure that the OCT derive maximum benefit from the provisions of this Decision, at local and regional level, and to enable them to:

— participate under the most favourable conditions in Community, local, regional and international markets

by diversifying the range and increasing the value and volume of OCT trade in goods and services,

— increase their collective capacity by means of greater economic integration and consolidation of functional cooperation or cooperation on specific themes,

— stimulate enterprise development, notably by encouraging EEC-OCT investment in services, with a view to creating employment, generating and distributing revenue and facilitating the transfer and adaptation of technology to specific OCT needs,

— derive maximum benefit from local or regional tourism and improve their participation in world tourism,

— set up the transport and communications networks and informatics and telematics systems needed for their development,

— step up vocational training activities and transfer know-how in view of the determining role of human resources in the development of services.

4. In pursuit of these aims, recourse shall be had, in addition to the specific provisions on services, to those on trade, trade promotion, industrial development, investment and education and training.

Article 67

1. In view of the wide range of services and their unequal contribution to development, and with a view to maximizing the impact of Community aid on the development of OCT, particular attention shall be paid to services necessary for their economies in the following areas:

— services that support economic development,

— tourism,

— transport, communications and information technology.

2. In order to implement cooperation in services, the Community shall help carry out programmes, projects and operations submitted to it on the initiative, or with the agreement, of the relevant authorities of the OCT. To this end, it shall use all the means provided for in this Decision, notably those at its disposal under development finance cooperation, including those which are the responsibility of the Bank.

Article 68

In the field of the development of services, particular attention shall be given to the specific needs and economic situations of the least-developed OCT.

Chapter 2

Services that support economic development

Article 69

In pursuit of cooperation objectives in this sector, cooperation shall concern marketed services, without, however, this leading to neglect of certain parastatal services required to improve the economic environment, such as customs computerization, by giving priority to the following services:

— services that support foreign trade,

— services required by the business sector,

— services that support regional integration.

Article 70

To help restore the OCT's external competitiveness, cooperation in the field of services shall give priority to services that support external trade, the scope of which is as follows:

(i) the creation of appropriate infrastructure for trade, in particular through operations to improve external trade statistics, automation of customs procedures, port and airport management and the establishment of closer links between the various protagonists in trade, including exporters, trade financing bodies, customs and central banks;

(ii) the promotion of specifically trade-oriented services such as trade promotion measures that are also applicable to services;

(iii) the development of other external trade-linked services such as trade financing and clearing and payment facilities, and access to information networks.

Article 71

To foster a strengthening of the economic fabric of the OCT, taking account of the provisions on enterprise development, particular attention shall be paid to the following areas:

(i) business advisory services to improve the running of undertakings, notably by facilitating access to services in the fields of management, accountancy, information technology, legal advice, tax consultancy and finance;

(ii) the setting-up of adequate, appropriate and flexible business financing facilities to stimulate the growth or setting-up of undertakings in the field of services;

(iii) strengthening the OCT's capacity in financial services and technical assistance for developing insurance and credit institutions in the field of trade development and promotion.

Article 72

To underpin economic integration designed to create viable economies, and in view of the provisions on regional cooperation, particular attention shall be given to the following areas:

(i) services to support trade in goods between OCT and between OCT and ACP States through trade measures such as market studies;

(ii) services required for the expansion of trade in services between OCT, and between OCT and ACP States, with a view to enhancing their complementarity, notably by extending traditional trade promotion measures, adapted where necessary to the services sector;

(iii) the creation of regional centres of services aimed at supporting specific economic sectors or jointly implemented sectoral policies, notably through the development of modern communications and information networks and computerized data banks.

Chapter 3

Tourism

Article 73

In view of the real importance of the tourist industry for the OCT, measures and operations to develop and support tourism shall be implemented. These measures shall be implemented at all levels, from the identification of the tourist product to the marketing and promotion stage.

The aim shall be to support the efforts of the relevant authorities of the OCT to derive maximum benefit from local, regional and international tourism in view of tourism's impact on economic development and to stimulate private financial flows from the Community and other sources into the development of tourism in the OCT. Particular attention shall be given to the need to integrate tourism into the social, cultural and economic life of the people.

Article 74

Specific tourism development measures shall be aimed at the definition, adaptation and development of appropriate policies at local, regional, subregional and international levels. Tourism development programmes and projects shall be based on these policies on the basis of the following four components:

(a) human resources and institutional development, *inter alia:*

— professional management development in specific skills and continuous training at appropriate levels in the private and public sectors to ensure adequate planning and development,

— establishment and strengthening of tourism promotion centres,

— education and training for specific segments of the population and public/private organizations active in the tourism sector, including personnel involved in sectors that support tourism,

— intra-OCT and OCT-ACP cooperation and exchanges in the fields of training, technical assistance and the development of institutions;

(b) product development, *inter alia:*

— identification of the tourism product, development of non-traditional and new tourism products, adaptation of existing products including the preservation and development of cultural heritage, ecological and environmental aspects, management, protection and conservation of flora and fauna, historical, social and other natural assets, development of ancillary services,

— promotion of private investment in the OCT's tourist industries, including the creation of joint ventures,

— provision of technical assistance for the hotel industry,

— production of crafts of a cultural nature for the tourist market;

(c) market development, *inter alia:*

— assistance for the definition and execution of objectives and market development plans at local, subregional, regional and international levels,

— provision of support for OCT's efforts to gain access to services for the tourist industry such as central reservation systems and air traffic control and security systems,

— provision of marketing and promotional measures and materials in the framework of integrated market development plans and programmes and with a view to improved market penetration, aimed at the main generators of tourism flows in traditional and non-traditional markets as well as specific activities such as participation at specialized trade events, such as fairs, production of quality literature, films and marketing aids;

(d) research and information, *inter alia:*

— improving tourism information and collecting, analysing, disseminating and utilizing statistical data,

— assessment of the socio-economic impact of tourism on the economies of the OCT with particular emphasis on the development of linkages to other sectors in the OCT and the surrounding regions, such as food production, construction, technology and management.

Chapter 4

Transport, communications and informatics

Article 75

1. Cooperation in the area of transport shall be aimed at the development of road transport, railways, port installations and shipping, transport by domestic waterways and air transport.

2. Cooperation in the area of communications shall be aimed at the development of postal services and telecommunications, including radiocommunications and informatics.

3. Cooperation in these areas shall be directed particularly towards the following objectives:

(a) the creation of conditions fostering the movement of goods, services and persons at local, regional and international level;

(b) the provision, rehabilitation, maintenance and efficient operation of cost-effective systems serving the requirements of social and economic development and adjusted to the needs of users and to the overall economic situation of the OCT concerned;

(c) greater complementarity of transport and communications systems at local, regional and international level;

(d) the harmonization of the local systems installed in the OCT, while facilitating their adjustment to technological progress;

(e) the reduction of barriers to cross-border transport and communications, in terms of legislation, regulations and administrative procedures.

Article 76

1. In all cooperation projects and programmes in the fields concerned, efforts shall be made to ensure an appropriate transfer of technology and know-how.

2. Particular attention shall be given to training OCT nationals in the planning, management, maintenance and operation of transport and communications systems.

Article 77

1. Air transport is important in forging closer economic, cultural and social links among the OCT, between them and the ACP States and also between them and the Community, in improving the communications of isolated or not easily accessible regions and in developing tourism.

2. The objective of cooperation in this field shall be to promote the harmonious development of local and regional OCT air transport networks and the modernization of local fleets of aircraft in line with technical progress, the implementation of the international Civil

Aviation Organization air navigation plan, the improvement of reception infrastructure and the application of international operating standards, the development and improvement of aircraft maintenance centres, the provision of training and the development of modern airport security systems.

Article 78

1. Shipping services are one of the forces behind economic development and promotion of trade between the OCT and the Community.

2. The objective of cooperation in this field shall be to ensure harmonious development of efficient and reliable shipping services on economically satisfactory terms by facilitating the active participation of all parties according to the principle of unrestricted access to the trade on a commercial basis.

Article 79

In the framework of financial and technical assistance for shipping, special attention shall be given to:

— effective development of efficient and reliable shipping services in the OCT, notably the gearing of port infrastructure to meet traffic requirements and the maintenance of port equipment,

— maintenance or acquisition of handling equipment and watercraft and their modernization in line with technical progress,

— development of inter-regional shipping with a view to encouraging intra-OCT and OCT—ACP cooperation and improvements in the functioning of the OCT's shipping,

— technology transfer including multimodal transport and containerization for the promotion of joint ventures,

— setting-up of appropriate legislative and administrative infrastructure and the improvement of port management, notably through vocational training,

— development of inter-island shipping services and connecting infrastructure and increased cooperation with economic operators.

Article 80

Particular importance shall be attached to the promotion of shipping safety and the security of crews, and to the prevention of pollution.

Article 81

1. In the field of cooperation on communications, particular attention shall be paid to technological development in supporting the OCT's efforts to establish and develop effective systems. This includes studies and programmes concerning satellite communication, where this is justified by operational considerations, in particular at regional and subregional level. Cooperation shall also cover means of observation of the Earth by satellite for meteorology and remote sensing purposes, notably their use in connection with all forms of pollution, the management of natural resources, agriculture and mining in particular, and land use planning.

2. Particular importance shall be attached to telecommunications in rural areas, in order to stimulate their economic and social development.

Article 82

The aim of cooperation in the field of information technology shall be the building-up of the OCT's information technology and telematics capacity by offering OCTs which wish to give high priority to this sector support for their efforts to acquire and install information technology systems; the development of efficient telematic networks, including international financial information; the production, in time, of computer components and software in the OCT; their participation in international activities in the field of data processing and the publication of books and reviews.

Article 83

Cooperation activities in the transport and communications fields shall be carried out in accordance with the provisions and procedures laid down in Title III of Part Three.

TITLE X

TRADE DEVELOPMENT

Article 84

With a view to attaining the objectives set out in Article 100, the Community shall implement measures for the development of trade at all stages up to final distribution of the product.

The object is to ensure that the OCT derive the maximum benefit from the provisions of this Decision in

the fields of trade, agricultural and industrial cooperation and may participate under the most favourable conditions in Community, domestic, sub-regional, regional and international markets by diversifying the range and increasing the value and the volume of the OCT's trade in goods and services.

Article 85

1. In promoting the development of trade and services, in addition to development of trade between the OCT and the Community, particular attention shall be given to operations designed to increase the OCT's self-reliance, to developing intra-OCT, OCT—ACP and international trade and to improving regional cooperation in trade and services.

2. Operations shall be undertaken at the request of the relevant authorities of the OCT, particularly in the following areas:

— the establishment of coherent trade strategies,

— development of human resources and professional skills in the field of trade and services,

— the establishment, adaptation and strengthening of organizations in the OCT dealing with the development of trade and services, particular attention being paid to the special needs of organizations in the least-developed OCT,

— support for the OCT's efforts to develop and improve the quality of their products, adapt them to market requirements and diversify their outlets,

— market development measures, including increasing contacts and exchange of information between economic operators in the OCT, the Member States of the Community and third countries,

— support for the OCT in the application of modern marketing techniques in production-oriented sectors and programmes in areas such as rural development and agriculture,

— support for the OCT's efforts to develop and improve support service infrastructure, including transport and storage facilities, in order to ensure effective distribution of goods and services and enhance the flow of exports from the OCT,

— support for the OCT in developing their internal capacities, information systems and awareness of the role and importance of trade in economic development,

— support for small and medium-sized enterprises in identifying and developing products, market outlets and joint marketing ventures.

3. With a view to expediting procedures, financing decisions may deal with multiannual programmes in accordance with the provisions of Article 196 on implementation procedures.

4. Support for the OCT's participation in trade fairs, exhibitions and trade missions should be provided only where such events form an integral part of overall trade development programmes.

5. Participation of the least-developed OCT in various trade activities shall be encouraged by special provisions, *inter alia*, the payment of travel expenses of personnel and costs of transporting exhibits on the occasion of their participation in local, regional and third-country fairs, exhibitions or trade missions, including the cost of the temporary construction and/or renting of exhibition booths and stalls. Special assistance shall be provided to the least-developed OCT for the preparation and/or purchase of promotional material.

Article 86

Within the framework of the instruments provided for in this Decision and in accordance with the provisions for development finance cooperation, assistance for the development of trade and services shall include technical assistance for the establishment and development of insurance and credit institutions in connection with trade development.

Article 87

In addition to the appropriations which, within the framework of the indicative programmes referred to in Article 187, may be allocated by each country or territory to the financing of operations to develop the fields referred to in Titles IX and X of Part Two, the contribution of the Community to the financing of such operations, where they are of a regional nature, may amount, within the framework of the regional cooperation programmes referred to in Article 90, to the amount provided for in Article 154 of this Decision.

TITLE XI

CULTURAL AND SOCIAL COOPERATION

Article 88

Cooperation shall contribute to the self-reliant development of the OCT, a process centred on man himself and rooted in each people's culture. The human and cultural dimension must embrace all areas and be reflected in all development projects and programmes. Cooperation shall back up the policies and measures adopted by the relevant authorities of the OCT to enhance their human resources, increase their own creative capacities and promote their cultural identities. It shall foster participation by the population in the process of development.

In particular such cooperation shall be carried out by:

— taking into account the cultural and social dimension,

— promoting cultural identities and inter-cultural dialogue, notably in connection with the safeguarding of the cultural heritage, the production and dissemination of cultural products, cultural events, and information and communications,

— implementing operations to enhance human resources, particularly with regard to education and training, scientific and technical cooperation, the role of women in development, health and nutrition, and population and demography.

Article 89

Cultural and social cooperation operations shall be carried out in accordance with the procedures laid down in Title III of Part Three.

TITLE XII

REGIONAL COOPERATION

Article 90

1. The Community shall support the efforts of the relevant authorities for the OCT through regional cooperation and integration to promote long-term collective and self-reliant, self-sustained and integrated social, cultural and economic development and greater regional self-sufficiency.

In so doing, it shall take account of the particular legal systems of the OCT concerned.

2. Community support shall be given within the framework of the major regional cooperation and integration objectives which the OCT have set or will set for themselves at regional, inter-regional and international level.

3. In order to promote and strengthen the OCT's collective capabilities, the Community shall provide effective aid enabling them to strengthen regional economic integration and consolidate the cooperation of a functional type or on specific themes referred to in Articles 92 and 93.

4. While taking account of local circumstances, regional cooperation shall transcend the concepts of geographical location. It shall also cover intra-OCT regional cooperation.

It shall include regional cooperation between OCT, ACP States and overseas departments, in accordance with Article 98. The funding to cover the participation of ACP States and the overseas departments shall be additional to funds allocated to the OCT under the Decision.

Article 91

1. Regional cooperation shall cover operations agreed on between:

— two or more or all OCT,

— one or more of the OCT and one or more neighbouring countries, ACP or non-ACP,

— one or more of the OCT and one or more ACP States or overseas departments,

— two or more regional bodies of which OCT are members,

— one or more of the OCT and regional bodies of which OCT, ACP States or overseas departments are members.

2. Regional cooperation may also cover projects and programmes agreed upon by two or more OCT and one or more neighbouring developing States, ACP or non-ACP, and, when special circumstances so warrant, between one country or territory and one or more non-neighbouring developing States, ACP or non-ACP.

Article 92

1. In the context of regional cooperation particular attention shall be paid to:

(a) evaluation and utilization of existing and potential dynamic complementarities in all relevant sectors;

(b) maximization of the use of human resources in the OCT as well as the optimum and judicious exploration, conservation, processing and exploitation of OCT natural resources;

(c) promotion of scientific and technical cooperation among the OCT or between OCT and ACP States, including support for intra-OCT and intra-ACP technical assistance programmes as provided for in Article 181 (e) of the Decision;

(d) acceleration of economic diversification in order to stimulate complementarity in production and intensification of cooperation and development within and between OCT regions, and also between the latter, ACP States and overseas departments;

(e) promotion of food security;

(f) strengthening a network of relations between individual countries or territories or between groups of countries or territorities which have common characteristics, affinities and problems in order to solve such problems;

(g) fullest use of economies of scale wherever a regional solution is more efficient than a local solution;

(h) expansion of the OCT's markets by promoting trade among OCT and between the OCT, ACP States and neighbouring third countries or overseas departments;

(i) integration of the OCT's markets by liberalizing intra-OCT and OCT-ACP trade and eliminating tariff, non-tariff, monetary and administrative barriers.

2. Particular stress shall be put on the promotion and strengthening of regional economic integration.

Article 93

Having regard to Article 92, the scope of regional cooperation shall include the following:

(a) agriculture and rural development, notably food self-sufficiency and food security;

(b) health programmes, including education, training, research and information related to primary health care and control of major diseases, including animal diseases;

(c) evaluation, development, exploitation and preservation of fishery and marine resources, including scientific and technical cooperation with a view to the surveillance of exclusive economic zones;

(d) preservation and improvement of the environment, especially through programmes to combat desertification, erosion, deforestation, coastal deterioration, the consequences of large-scale marine pollution, including large accidental discharges of petroleum or other pollutants with a view to ensuring rational and ecologically balanced development;

(e) industrialization, including the setting-up of regional and inter-regional production and marketing enterprises;

(f) exploitation of natural resources, notably the production and distribution of energy;

(g) transport and communications, namely air and sea transport, inland waterways, postal services and telecommunications;

(h) development and expansion of trade;

(i) support for the setting-up or strengthening of regional payment mechanisms including clearing and financing facilities for trade;

(j) assistance to help the OCT combat drug trafficking at regional and inter-regional levels;

(k) assistance for action programmes undertaken by OCT and OCT-ACP and ACP-EEC trade and business organizations with the aim of improving the production and marketing of products on external markets;

(l) education and training, research, science and technology, informatics, management, information and communication, the establishment and strengthening of training and research institutions and technical bodies responsible for technology exchanges and cooperation among universities;

(m) other services, including tourism;

(n) cultural and social cooperation activities, including support for action programmes implemented by OCT at regional level with a view to enhancing the status of women, improving their living conditions, expanding their economic and social role and promoting their full participation in the economic, cultural and social development process.

Article 94

1. Regional organizations duly mandated by the relevant authorities of the OCT or by them and the ACP States concerned must play an important part in the design and implementation of regional programmes.

2. They may take part in the programming exercise and in the implementation and management of regional programmes and projects.

3. Where an operation is financed by the Community through a regional cooperation body, the financing terms applicable to the final beneficiaries shall be agreed between the Community and that body in agreement with the country or territory or countries or territories and, where relevant, the ACP State or States concerned.

Article 95

A regional operation is one which helps directly to solve a development problem common to two or more countries or territories through joint schemes or coordinated schemes and which meets at least one of the following criteria:

(a) because of its nature or physical characteristics, it necessarily extends beyond the frontiers of a country or territory and cannot be carried out by a single country or territory nor be divided up into local operations to be undertaken by each country or territory on its own account;

(b) the regional formula makes it possible to achieve significant economies of scale in relation to local and national operations;

(c) the operation is the regional or inter-regional expression of a sectoral or a global strategy;

(d) the accompanying costs and benefits are unequally shared out among the beneficiary countries, territories and States.

Article 96

The Community's contribution under regional cooperation shall, in respect of operations which could be undertaken partly at local level, be determined on the basis of the following factors:

(a) the operation strengthens cooperation between the OCT and, where relevant, the ACP States concerned at the level of their authorities, institutions or enterprises, or through regional bodies or by removing obstacles, whether financial or in the form of regulations;

(b) two or more OCT and, where relevant, ACP States have entered into mutual commitments in respect of an operation, notably as regards the distribution of facilities, investment and the running thereof.

Article 97

1. The requests for financing from funds earmarked for regional cooperation shall be governed by the following general procedures:

(a) requests for financing shall be presented by each of the OCT participating in a regional operation;

(b) wherever an operation of regional cooperation is such as to be of interest to other OCT or ACP States, the Commission shall, in agreement with the authorities making the application, inform them or, if need be, all the OCT or ACP States. The OCT interested shall then confirm whether they intend to participate.

Notwithstanding this procedure, the Commission shall examine without delay any request for financing as long as it has been presented by at least two OCT or at least one OCT and one ACP State. The financing decision shall be taken after the authorities consulted have communicated their intention;

(c) where a single country or territory is associated with ACP States or non-ACP countries, as provided for in Article 94, its request alone shall suffice;

(d) regional cooperation bodies may present requests for the financing of one or more specific regional cooperation schemes on behalf of their OCT members, and with their explicit agreement;

(e) each request for regional cooperation funding must include, where necessary, proposals concerning:

(i) the ownership of the goods and services to be financed as part of the operation, and the division of responsibilities for operation and maintenance;

(ii) the choice of the regional authorizing officer and relevant authorities of the country or territory, State or body authorized to sign the financing agreement on behalf of all the participating OCT and, where relevant, ACP States and participating bodies.

2. The indicative programme for each region may lay down appropriate arrangements for the submission of requests.

3. The country or territory, countries or territories, ACP State or States or regional bodies participating in a regional operation with third countries as provided for in Article 94 may request the Community to finance that part of the operation for which they are responsible or a part in proportion to the benefits they derive from the operation.

Article 98

1. In order to improve regional cooperation, encouragement shall be given for consultations between the relevant authorities of different States, notably ACP States, OCT and the overseas departments of the geographical area in question, in liaison with the authorities of the Member States responsible for the OCT and overseas departments.

2. Regional cooperation in the field of trade may take the form of regional trade agreements, in accordance with the Treaty and the Convention.

3. In administering the European Development Fund and the Structural Funds, and in accordance with the rules on eligibility for the respective Funds, the Commission will ensure that the OCT (EDF), overseas departments (Structural Funds) and ACP States (EDF) may receive financing from Community funds for regional projects or programmes carried out jointly by OCT, overseas departments and ACP States within the same geographical area subject to the following:

— the joint regional project or programme must comply with the provisions on objectives, scope and rules of procedure laid down in the relevant Articles of the Convention and of this Decision,

— the rules of procedure for financing projects and programmes shall be those governing the Community fund in question.

The Commission shall assume responsibility for coordination in the period between the financing and the implementation of the project or programme.

Article 99

For the purposes set out in this Title, the amount of the Community's financial assistance is provided for in Article 154 of this Decision.

PART THREE

THE INSTRUMENTS OF EEC-OCT COOPERATION

TITLE I

TRADE COOPERATION

Chapter 1

General trade arrangements

Article 100

1. In the field of trade cooperation, the object of this Decision is to promote trade between the OCT and the Community, taking account of their respective levels of development, and also between the OCT themselves.

2. In the pursuit of this objective, particular regard shall be had to securing effective additional advantages for the OCT's trade with the Community and to improving the conditions of access for their products to the market in order to accelerate the growth of their trade and, in particular, of the flow of their exports to the Community and to ensure a better balance in trade between the parties concerned.

3. To this end, the parties concerned shall apply the provisions of this Title and the other appropriate measures under Title III of this Part and under Part Two of this Decision.

Article 101

1. Products originating in the OCT shall be imported into the Community free of customs duties and charges having equivalent effect.

2. Products not originating in the OCT but which are in free circulation in an OCT and are re-exported as such to the Community shall be accepted for import into the Community free of customs duties and taxes having equivalent effect providing that they:

— have paid, in the OCT concerned, customs duties or taxes having equivalent effect of a level equal to, or higher than, the customs duties applicable in the Community on import of these same products originating in third countries eligible for the most-favoured-nation clause,

— have not been the subject of an exemption from, or a refund of, in whole or in part, customs duties or taxes having equivalent effect,

— are accompanied by an export certificate.

3. The provisions of paragraph 2 shall not apply to:

— agricultural products listed in Annex II to the Treaty nor to products falling within Council Regulation (EEC) No 3033/80 of 11 November 1980 laying down the trade arrangements applicable to certain goods resulting from the processing of agricultural products [1], as last amended by Regulation (EEC) No 1436/90 [2],

— products subject, on import into the Community, to quantitative restrictions or limitations,

— products subject, on import into the Community, to anti-dumping duties.

4. To the extent that the provisions of paragraph 1 lead to tariff arrangements which are more favourable to products originating in the OCT than the arrangements resulting from Regulation (EEC) No 715/90 [3], the abolition of customs duties shall take place gradually over the same periods and at the same rate as those provided for by the Act of Accession of Spain and Portugal, for the same products as imported from these States into the Community as constituted on 31 December 1985.

During this gradual reduction, and when the customs duties applied to imports into the Community, as constituted on 31 December 1985, of products from Spain and Portugal differ for the two countries, the higher of the two customs duties shall be applied to products originating in the OCT. Dismantling shall begin as soon as the duties applied to the same products originating in Spain or Portugal reach a level which is lower than those of the duties applied to products originating in the OCT.

5. Within the context of this Decision, Spain and Portugal shall apply customs duties calculated in accordance with Decision 86/47/EEC, as last extended by Decision 90/669/EEC.

Article 102

The Community shall not apply to imports of products originating in the OCT any quantitative restrictions or measures having equivalent effect.

Article 103

1. Article 102 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality or public policy, 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.

2. Such prohibitions or restrictions shall in no case constitute a means of arbitrary discrimination or a disguised restriction of trade generally.

3. Provisions on the movement of hazardous and radioactive waste are set out in Title I of Part Two of this Decision.

Article 104

This Decision shall be without prejudice to the treatment that the Community reserves for certain products under international agreements on those products to which the Community is a signatory.

Article 105

This Decision shall apply to Greenland, subject to the specific provisions set out in the Protocol on special arrangements for Greenland, annexed to the Treaty amending, with regard to Greenland, the Treaties establishing the European Communities [4].

(1) OJ No L 323, 29. 11. 1980, p. 1.
(2) OJ No L 138, 31. 5. 1990, p. 9.
(3) OJ No L 84, 30. 3. 1990, p. 85.

(4) OJ No L 29, 1. 2. 1985, p. 1.

Article 106

1. In view of the present development needs of the OCT, the relevant authorities of the OCT may retain or introduce, in respect of imports of products originating in the Community or in other OCT, such customs duties or quantitative restrictions as they consider necessary.

2. (a) The trade arrangements applied to the Community by the OCT may not give rise to any discrimination between Member States nor be less favourable than most-favoured-nation treatment.

(b) Notwithstanding specific provisions of this Decision, the Community shall not discriminate between OCT in the field of trade.

(c) The provisions of (a) shall not preclude a country or territory from granting certain other OCT or other developing countries more favourable treatment than that accorded to the Community.

Article 107

Denmark, France, the Netherlands and the United Kingdom shall communicate to the Commission, within a period of three months following the entry into force of this Decision, the customs tariffs and lists of quantitative restrictions retained by the OCT with which they have special relations.

The Member States concerned shall also communicate to the Commission any subsequent amendments to such measures as and when they are adopted.

Article 108

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 II,

— the conditions for entry, into the Community, of products not originating in the OCT but in free circulation in an OCT, and the methods of administrative cooperation relating thereto, are laid down in Annex III.

2. The Council, acting unanimously on a proposal from the Commission, shall adopt any amendment to Annexes II and III.

3. If, for any product, the concept of originating product has not been defined pursuant to paragraph 1 or paragraph 2, the Member States shall apply their own rules.

Article 109

1. If, as a result of the application of this Decision, serious disturbances occur in a sector of the economy of the Community or one or more of its Member States, or their external financial stability is jeopardized, or if difficulties arise which may result in a deterioration in a sector of the Community's activity or in a region of the Community, the Commission may, in accordance with the procedure specified in Annex IV, take, or authorize the Member State concerned to take, the necessary safeguard measures.

2. For the purpose of implementing paragraph 1, priority shall be given to such measures as would least disturb the functioning of the association and the Community. These measures shall not exceed the limits of what is strictly necessary to remedy the difficulties that have arisen.

Article 110

When safeguard measures are taken, modified or removed, particular attention shall be paid to the interests of the least-developed OCT.

Chapter 2

Special undertakings on rum

Article 111

Until the entry into force of a common organization of the market in spirits and notwithstanding Article 101 (1), entry into the Community of products falling within CN codes 2208 40 10, 2208 40 90, 2208 90 11 and 2208 90 19 — rum, taffia and arrack — originating in the OCT shall be governed by Annex V.

Article 112

This Chapter and Annex V shall not apply to relations between the OCT and the French overseas departments.

Chapter 3

Trade in services

Article 113

1. Trade in services is important for the development of the OCT's economies on account of the increasing role of services in international trade and their considerable growth potential.

2. The long-term aim in this area is a progressive liberalization of trade in services, with due respect for the OCT's local policy objectives, and taking due account of the level of development of the OCT.

3. It will be opportune and necessary to develop cooperation in this sector when the outcome of current multilateral trade negotiations is known.

4. Therefore, amendments or additions to this Decision may be adopted by the Council, acting by a qualified majority on a proposal from the Commission, to take account, and to take advantage, of the outcome of the multilateral trade negotiations within GATT.

TITLE II

COOPERATION IN THE FIELD OF COMMODITIES

Chapter 1

Stabilization of export earnings from agricultural commodities (Stabex)

Article 114

1. With the aim of remedying the harmful effects of the instability of export earnings and to help the OCT overcome one of the main obstacles to the stability, profitability and sustained growth of their economies, to support their development efforts and to enable them in this way to ensure economic and social progress for their peoples by helping to safeguard their purchasing power, a system shall be operated to guarantee the stabilization of export earnings derived from the OCT's exports to the Community or other destinations as defined in Article 117, of products on which their economies are dependent and which are affected by fluctuations in price or quantity or both these factors.

2. In order to attain these objectives, transfers shall be devoted, in accordance with a framework of mutual obligations to be agreed between the relevant authorities of the country or territory concerned and the Commission in each case, either to the sector, interpreted in the widest possible sense, that recorded the loss of export earnings and be used there for the benefit of economic operators adversely affected by this loss, or, where appropriate, to diversification, either for use in other appropriate productive sectors, in principle agricultural, or for the processing of agricultural products.

Article 115

1. The following products shall be covered:

	CN code
1. Groundnuts in shell or shelled	1202
2. Groundnut oil	1508
3. Cocoa beans	1801
4. Cocoa husks, shells and skins and other waste	1802
5. Cocoa paste	1803
6. Cocoa butter	1804
7. Cocoa powder	1805
8. Raw or roasted coffee	0901 11 to 0901 22
9. Extracts, essences and concentrates of coffee	2101 10 11 2101 10 19
10. Cotton not carded or combed	5201
11. Cotton linters	1404 20
12. Coconuts	0801 10
13. Copra	1203
14. Coconut oil	1513 11 1513 19
15. Palm oil	1511
16. Palm kernel oil	1513 21 1513 29
17. Palm nuts and kernels	1207 10
18. Raw hides and skins	4101 10 to 4101 30 4102 4103 10
19. Leather of bovine animals	4104 10 to 4104 29 4104 31 11 4104 31 19 4104 31 30 4104 39 10
20. Sheep and lamb skin leather	4105
21. Goat and kid skin leather	4106
22. Wood in the rough and squared wood	4403
23. Sawn wood	4407
24. Fresh bananas	0803 00 10
25. Dried bananas	0803 00 90
26. Tea	0902
27. Raw sisal	5304 10
28. Vanilla	0905
29. Cloves	0907
30. Wool not carded or combed	5101
31. Fine animal hair of Angora goat — Mohair	5102 10 50
32. Gum arabic	1301 20 00
33. Pyrethrum; saps and extracts of pyrethrum	1211 90 10 1302 14
34. Essential oils	3301 11 to 3301 29
35. Sesame seed	1207 40

	CN code
36. Cashew nuts and kernels	0801 30
37. Pepper	0904
38. Shrimps and prawns	0306 13 0306 23
39. Squid, octopus and cuttlefish	0307 41 0307 49 0307 51 0307 59
40. Cotton seed	1207 20
41. Oil cake	2305 2306 10 2306 50 2306 60 2306 90 93
42. Rubber	4001
43. Peas	0708 10 0713 10 0713 20
44. Beans	0708 20 0713 31 to 0713 39 ex 0713 90
45. Lentils	0713 40
46. Nutmeg and Mace	0908 10 0908 20
47. Shea nuts	1207 92
48. Shea nut oil	ex 1515 90 40 to ex 1515 90 99
49. Mangoes	ex 0804 50.

2. In all cases of application of the system, the Commission shall, in the interests of the country or territory concerned, consider as products within the meaning of this Chapter:

(a) each product listed in paragraph 1;

(b) products groups 1 and 2, 3 to 7, 8 and 9, 10 and 11, 12 to 14, 15 to 17, 18 to 21, 22 and 23, 24 and 25, 47 and 48.

Article 116

If, 12 months after the entry into force of this Decision, one or more products not contained in the list in Article 115 but upon which the economies of one or more of the OCT depend to a considerable extent are affected by sharp fluctuations, the Council, acting on a proposal from the Commission, may decide, not more than six months after the presentation of a request by the relevant authorities of the country or territory concerned, to include the said product or products in the list, taking account of factors such as employment, deterioration of the terms of trade between the Community and the country or territory concerned, the level of development of the country or territory concerned and the conditions which characterize products originating in the Community.

Article 117

The system shall apply to earnings from exports by each country or territory to the Community of each product referred to in Article 115 (2).

Article 118

For the purposes stipulated in Article 114 and for the period laid down in Article 154, the amount provided for in paragraph 1 (a) (iii) of that Article shall be allocated to the system. This amount shall cover all commitments under the system. It shall be managed by the Commission.

Article 119

1. The overall amount referred to in Article 118 shall be divided into a number of equal annual instalments corresponding to the number of years of application of Article 154.

2. Whatever balance remains at the end of each year of application of Article 154 except the last shall be carried forward automatically to the following year.

Article 120

The resources available for each year of application are made up of the sum of the following:

1. the annual instalment, plus any amounts available or less any amounts used under Article 121 (1);

2. the sums carried forward under Article 119 (2).

Article 121

1. If the total amount of the transfer bases in a year of application, calculated in accordance with Article 124, and where appropriate reduced in accordance with Articles 128 to 130, exceeds the amount of resources available in the system for that year, advance use shall be made automatically, for each year except the last, of a maximum of 25 % of the following year's instalment.

2. If, after the operation referred to in paragraph 1, the amount of resources available is still less than the total amount of the transfer bases referred to in paragraph 1 for the same year of application, the amount of each transfer basis shall be reduced by 10 % of that amount.

3. If, after the reduction referred to in paragraph 2, the total amount of the transfers so calculated is less than the amount of resources available, the remainder shall be shared among all the transfers in proportion to the amounts by which each transfer was reduced.

4. If, after the reduction referred to in paragraph 2, the total amount of the transfers which may give rise to a payment exceeds the amount of available resources, the Council, having evaluated the situation on the basis of a Commission report on the probable development of the system, shall examine the steps to be taken to remedy that situation, within the terms of this Decision.

Article 122

In the case of any balance remaining from the overall amount referred to in Article 118 after the expiry of the last year of administration of the system in the period laid down in Article 154,

(a) the amounts resulting from the application of the percentages referred to in Article 124 (3) and (4) shall be repaid to each country or territory in proportion to the deduction or deductions made in application of those provisions;

(b) if any balance remains after the application of (a), the Council shall decide, on a proposal from the Commission, on its use.

Article 123

1. The system shall apply to the earnings from exports by a country or territory of the products referred to in Article 115 (2) if, during the year preceding the year of application, earnings from the export of each product to all destinations, re-exports excluded, represented at least 5 % of its total earnings from exports of all goods. The percentage shall be 4 % in the case of sisal.

2. Where, following a natural disaster, a substantial fall in production of the product in question is recorded during the year preceding the year of application, the percentage referred to in paragraph 1 shall be calculated on the basis of the average export earnings from that product during the three years preceding the year of the disaster.

A substantial fall in production shall be taken to mean at least 50 % of the average production during the three years preceding the year of the disaster.

Article 124

1. In order to implement the system, a reference level and a transfer basis shall be calculated for each country or territory and for exports of each product referred to in Article 115 (1) to the Community.

2. The reference level shall be constituted by the average of export earnings during the period of the six calendar years preceding each year of application less the two years with the highest and lowest figures.

3. The transfer basis shall be constituted by the difference between the reference level and actual earnings in the calendar year of application, reduced by an amount corresponding to 4,5 % of the reference level.

4. The reductions referred to in paragraph 3 shall not apply if the difference between the reference level and actual earnings is less than ECU 1 million.

In no case shall the reduction of the difference between the reference level and actual earnings be greater than 30 %.

5. The amount of the transfer shall be made up to the transfer basis of Article 121, after application, where relevant, of Articles 128 to 130.

Article 125

1. In order to ensure that the system functions efficiently and rapidly, statistical cooperation shall be instituted between the relevant authorities of each country or territory and the Commission.

2. For the first year of application, the OCT shall notify the Commission of:

(a) the value of their exports of all goods to all destinations for the year preceding the year of application;

(b) the volume of marketed production of the product or products in question during the reference period and in the year of application;

(c) the volume and the value of exports of the product or products in question to all destinations in the reference period and in the year of application;

(d) the volume and the value of exports of the product or products in question to the Community during the reference period and in the year of application.

3. In subsequent years of administration of the system, the statistical requirements referred to above shall refer only to the year not covered by the information provided in the previous year.

4. This information must be sent to the Commission not later than 31 March in the year following that of application. Failure to do so shall result in the country or territory concerned losing all transfer rights in relation to the product or products in question for the relevant year of application.

Article 126

1. The system shall be implemented in respect of the products listed in Article 115 where they are:

(a) released for home use in the Community, or

(b) brought into the Community under the inward processing arrangements in order to be processed.

2. The statistics to be used to carry out the calculations referred to in Article 124 shall be those calculated and published by the Statistical Office of the European Communities.

Article 127

No transfer shall take place if it emerges from the examination of the dossier to be undertaken by the Commission in conjunction with the relevant authorities of the country or territory concerned that the fall in earnings from exports to the Community is the result of measures or policies involving discrimination detrimental to the Community.

Article 128

The trasfer basis shall be reduced in due proportion to the fall in earnings from exports to the Community of the product in question if, after joint examination by the Commission and the relevant authorities of the country or territory concerned, it appears that such a drop is the consequence of trade policy measures taken by the country or territory or through its economic operators with the aim of restricting supply; such reduction may entail the annulment of the transfer basis.

Article 129

Should examination of the trend of the exports of the country or territory to all destinations, of production of the product in question in the country or territory concerned and demand in the Community reveal significant changes, consultations shall take place between the Commission and the relevant authorities of that country or territory to determine whether the transfer basis is to be maintained or reduced, and, if so, to what extent.

Article 130

In no case shall any transfer basis for a given product be greater than the corresponding amount calculated on the basis of the exports of the country or territory concerned to all destinations.

Article 131

1. The Commission shall adopt a transfer decision on completion of the examination carried out in conjunction with the relevant authorities of the country or territory; this examination shall bear on the statistical data and the calculation of the transfer basis which may give rise to a payment.

2. For each transfer a transfer agreement shall be concluded between the Commission and the relevant authorities of the country or territory concerned.

Article 132

1. Provided that the relevant authorities of the country or territory concerned have sent all the necessary statistical information by 31 March in the year following that of application, in accordance with Article 125 (4), the Commission shall notify each country or territory not later than 30 April following of its situation in respect of each of the products listed in Article 115 (2) exported by that country or territory during that year.

2. The relevant authorities of the country or territory concerned and the Commission shall take all possible steps to ensure that the procedures referred to in Articles 127 to 129 are concluded not later than 30 June of the year in question. After this period has elapsed, the Commission shall notify the relevant authorities of the country or territory of the amount of the transfer resulting from appraisal of the dossier.

3. Not later than 31 July of the year in question the Commission shall take decisions concerning all transfers, except for those where consultations have not been concluded.

Article 133

1. Where application of Articles 123 and 124 gives rise to a transfer basis, the relevant authorities of the country or territory concerned shall, in the month following receipt of the notification referred to in Article 132 (1), send the Commission a substantial analysis of the sector recording the loss of earnings, the causes of the loss, the policies pursued by the authorities and the projects, programmes and operations to which they undertake to allocate the resources in accordance with the objectives set out in Article 114 (2).

2. Should the relevant authorities of the recipient country or territory intend, as provided for in Article 114 (2), to allocate the funds to a sector other than that where the loss has occurred, they shall communicate to the Commission the reasons for this allocation.

3. Projects, programmes or operations to which the relevant authorities of the recipient country or territory undertake to allocate the transferred resources shall be examined jointly by the Commission and the said authorities.

Article 134

When agreement is reached on the use of resources, the relevant authorities of the country or territory and the Commission shall sign a protocol setting up a framework of mutual obligations stipulating how the funds are to be used at the various stages of the operations agreed on.

Article 135

1. The transfer shall be made in ecus upon signature of the transfer agreement referred to in Article 131 (2) into an interest-bearing account, for which presentation of two signatures, of the relevant authorities of the country or territory and the Commission, shall be required. Any interest shall be credited to this account.

2. The funds in the account referred to in paragraph 1 shall be mobilized as the operations specified in the protocol on the use of the funds are implemented, on condition that the provisions of Article 136 have been complied with.

3. The procedures laid down in paragraph 2 shall be applicable *mutatis mutandis* to any counterpart funds generated.

Article 136

1. Within 12 months of the mobilization of resources the relevant authorities of the recipient country or territory shall send the Commission a report on the use which they have made of the funds transferred.

2. Should the report referred to in paragraph 1 not be presented within the time limit set or should it call for comment, the Commission shall send a request for substantiation to the relevant authorities of the country or territory concerned, which shall be obliged to reply thereto within two months.

3. Once the deadline referred to in paragraph 2 has expired, the Commission may, having referred the matter to the Council and having duly informed the relevant authorities of the country or territory concerned, three months after completion of this procedure, suspend application of decisions on subsequent transfers until the required information has been provided.

The relevant authorities of the country or territory concerned shall be notified of this measure immediately.

Chapter 2

Mining products: special financing facility (Sysmin)

Article 137

1. A special financing facility shall be set up for those OCT whose mining sectors occupy an important place in their economies and are facing difficulties that are already perceived or foreseeable in the near future.

2. Its aims are to contribute towards establishing a more solid and wider basis for the development of the OCT while supporting the relevant authorities' efforts:

— to safeguard their mining production and export sectors by remedial or preventive action designed to alleviate the serious consequences for their economies of the loss of viability as a result of a decline in their production or export capacity and/or export earnings in the mining products sector following major technological or economic changes or temporary or unforeseeable disruptions beyond the control of the country or territory concerned and of the enterprise managing the sector concerned. Particular attention shall be paid to adjusting the competitive situation of enterprises to changes in market conditions, or

— for OCT heavily dependent on exports of one mining product, to diversify and broaden the bases of their economic growth, notably by helping them to complete development projects and programmes under way where these are seriously jeopardized owing to substantial falls in export earnings from that product.

3. In pursuing these objectives, this support:

— will be adapted to the economic restructuring needs of the country or territory concerned,

— will take into account at the time of its formulation and implementation the mutual interests of the OCT and the Member States.

Article 138

1. The special financing facility provided for in Article 137 shall be aimed at OCT which export to the Community and which, during at least two of the four years preceding that of the request for aid, have derived either:

(a) 15 % or more of their export earnings from one of the following products: copper (including cobalt), phosphates, manganese, bauxite and alumina, tin, iron ore, whether or not in agglomerate form, uranium; or

(b) 20 % or more of their export earnings from all mining products (excluding precious minerals other than gold, oil and gas).

However, for least-developed OCT, the figure stipulated in (a) shall be 10 % and the figure stipulated in (b) shall be 12 %.

For the calculation of the thresholds referred to in (a) and (b) earnings shall not include those from mining products not covered by the system.

2. Recourse to the special financing facility shall be possible where, in the light of the aims referred to above:

(a) it is perceived or expected that the viability of one or more enterprises in the mining sector has been or is about to be seriously affected following temporary or unforeseeable difficulties — whether technical, economic or political — beyond the control of the country or territory or undertaking concerned, and where such damage to viability leads to or may lead to a significant fall in revenue for the country or territory concerned — assessed in particular on the basis of a drop in production or export capacities of the product in question of around 10 % — and/or a deterioration in its external trade balance.

Foreseeable damage to viability shall be characterized by the onset of deterioration of the means of production and its impact on the economy of the country or territory; or

(b) in cases under paragraph 1 (a), it is perceived that a substantial fall in export earnings from the mining product concerned, in relation to the average for the two years before that of the request, is seriously jeopardizing the completion of development projects and programmes under way. To be taken into consideration, such a fall in earnings must:

— be caused by technical, economic or political difficulties and not artificially provoked, directly or indirectly, by policies and measures of the relevant authorities of the country or territory or the economic operators concerned,

— result in a corresponding fall in total export earnings of approximately 10 % at least in the year before that of the request.

The said difficulties shall refer to disruptions such as accidents, serious technical incidents, serious internal or external political events, major technological and economic changes or major changes in trade relations with the Community.

3. The relevant authorities of a country or territory may request financial aid under the special financing facility where the conditions set out in paragraphs 1 and 2 are met.

Article 139

1. The aid referred to in Article 138 shall be used in pursuit of the aims of the facility as set out in Article 137 (2).

Where maintenance or return to viability of the mining enterprise or enterprises affected is deemed possible and appropriate, the aid shall be used to finance projects or programmes, including the financial restructuring of the enterprise or enterprises concerned, with a view to maintaining, re-establishing or rationalizing at a viable level the production and export capacity concerned.

Where it is not thought possible to maintain or restore viability, the aid shall be used to broaden the bases of economic growth through the financing of viable horizontal or vertical conversion or diversification projects or programmes.

By common agreement, the aim of diversification may also be pursued where the economy is dependent on the mining product in question to a significant degree, even where viability can be re-established.

Where Article 138 (2) (b) is applicable, the objective of diversification shall be pursued through financial assistance to aid the completion of development projects and programmes under way outside the mining sector which are in jeopardy.

2. Any decision to allocate funds to projects or programmes shall take due account of economic interests and the social implications of such aid in the country or territory concerned and in the Community and will be adapted to the economic restructuring needs of that country or territory.

In the case of requests presented under Article 138 (1) (b), the Community and the relevant authorities of the country or territory concerned shall jointly and systematically seek to establish the scope and the terms of any aid accorded in such a way that such aid does not injure competing Community mining production.

The consideration and appraisal of these factors shall be part of the analysis referred to in Article 140 (2).

3. Special attention shall be accorded to:

— processing and transport operations, notably at regional level, and the proper integration of the mining sector in the overall economic and social development of the country or territory,

— preventive operations to minimize any disruptive effects by adapting technology, improving the

technical and managerial skills of local staff and adapting the skills of local staff to enterprise management techniques,

— stepping up the OCT's scientific and technical capacity for the production of new materials.

Article 140

1. The request for aid must include information on the nature of the problems encountered, the perceived or expected consequences of the disruption both at local level and at the level of the mining enterprise or enterprises affected and indications in the form of an identification sheet on the measures or actions undertaken or desired to remedy them.

The request shall be made as soon as these consequences are identified and within a period not exceeding 12 months.

2. Prior to any Community decision a technical, economic and financial analysis shall be made systematically of the mining sector concerned in order to assess both the eligibility of the request and the project or programme to be undertaken to utilize the aid. That analysis, which shall be very detailed, shall, in order to identify the operation, take particular account of world market prospects and, without prejudice to the first paragraph of Article 139 (2), the situation of the Community market in the products concerned. It shall also include an analysis of the possible implications of such an operation for the competing mining products of Member States and the possible implications of its non-implementation for the country or territory concerned. Its objective shall be to ascertain:

— whether the viability of the means of production concerned has been or is likely to be damaged and whether that viability can be restored, or whether recourse to diversification measures is more appropriate, or

— whether the fall in export earnings referred to in Article 138 (2) (b) seriously jeopardizes the implementation of development projects and programmes under way.

The analysis shall be carried out in accordance with the procedures for financial and technical cooperation. It shall require the close cooperation of the relevant authorities of the country or territory and the economic operators concerned.

3. A single decision shall be taken on eligibility and the financing proposal.

The necessary steps will be taken to expedite appraisal of requests so that the appropriate action may be taken swiftly.

Article 141

1. If necessary, technical assistance for setting up and supervising the project may be financed under the special financing facility provided for in Article 142.

2. The procedures applicable to such assistance and the detailed rules for its implementation shall be those laid down for development finance cooperation.

Article 142

1. For the purposes specified in Article 137 and for the period laid down in Article 154, the Community shall allocate the overall amount provided for in paragraph 1 (a) (iv) of that Article to cover all its commitments under this special financing facility. The amount allocated to the facility shall be managed by the Commission.

2. Before expiry of the period laid down in Article 154, the Council shall decide, on a proposal from the Commission, on the allocation of any balances remaining from the overall amount.

3. The amount of the aid provided for in Article 138 shall be determined by the Commission in the light of the funds available under the special financing facility, the nature of the relevant projects and programmes, the possibilities for cofinancing and the relative importance of the mining industry concerned for the economy of the country or territory.

4. Aid accorded to a country or territory under the special financing facility may be on-lent to the final borrower on different financial terms which shall be established in the financing decision and shall result from an analysis of the aid project conducted on the basis of the usual economic and financial criteria for the type of project planned.

5. The analysis referred to in Article 140 shall be financed from resources of the facility.

6. In exceptional circumstances arising out of an emergency, confirmation and proof of which will have to be provided initially by the analysis, a country or territory which so requests may be granted an advance by way of partial pre-financing of the project or programme which it precedes.

TITLE III

DEVELOPMENT FINANCE COOPERATION

Chapter 1

General provisions

Section 1

Objectives

Article 143

The objectives of development finance cooperation shall be, through the provision of adequate financial resources and appropriate technical assistance, to:

(a) support and promote the efforts of the OCT to achieve long-term, self-determined, self-reliant and self-sustained integrated social, cultural and economic development, on the basis of mutual interest and in a spirit of interdependence;

(b) help raise the standard of living and improve the well-being of the peoples of the OCT;

(c) promote measures likely to mobilize the capacity for initiative of communities and the participation of those concerned in the design and implementation of development projects;

(d) contribute to the fullest participation of the population in the benefits of development;

(e) contribute to the development of the capacity of the OCT to innovate, adapt and transform technology;

(f) contribute to optimal and judicious exploration, conservation, processing, working and exploitation of the OCT's natural resources in order to enhance the efforts of the OCT to industrialize and to achieve economic diversification;

(g) provide support for and promote the optimal development of human resources in the OCT;

(h) facilitate an increase in the financial flows to the OCT which are responsive to the evolving needs of the OCT and support the efforts of the OCT to harmonize international cooperation for their development through cofinancing of operations with other financing agencies or third parties;

(i) seek new approaches to direct private investment promotion in the OCT; support the development of a healthy, prosperous and dynamic OCT private sector and encourage local, national and foreign private investment flows into the productive sectors in the OCT;

(j) encourage intra-OCT and OCT-ACP cooperation and regional cooperation among them;

(k) permit the establishment of more balanced economic and social relations and better understanding between the OCT, ACP States, Member States of the Community and the rest of the world, with a view to achieving a new international economic order;

(l) enable the OCT faced with serious economic and social difficulties of an exceptional nature resulting from natural disasters or extraordinary circumstances having comparable effects to benefit from emergency assistance;

(m) help the least-developed OCT to overcome the specific obstacles which hamper their development efforts.

Section 2

Principles

Article 144

Development finance cooperation shall:

(a) be implemented on the basis of and be consistent with the development objectives, strategies and priorities established by the relevant authorities of the OCT, at local and regional levels, with due regard to their respective geographical, social and cultural characteristics, as well as their specific potential;

(b) be provided on highly concessional terms;

(c) ensure that resource flows are accorded on a more predictable and continuous basis;

(d) ensure participation by the OCT in the management and utilization of financial resources and ensure effective decentralization of decision-making powers;

(e) strengthen and utilize, as much as possible, the OCT's human resources and existing administrative structures;

(f) be flexible and appropriate to the situation in each country or territory as well as adapted to the specific nature of the project or programme concerned;

(g) be carried out with a minimum of administrative formalities using simple and rational procedures so that projects and programmes may be implemented rapidly and efficiently;

(h) ensure that technical assistance is provided only upon the request of the relevant authorities of the country or territory concerned and is of the stipulated quality, relevant, cost-effective and includes arrangements for rapid and effective training of local replacement personnel.

Section 3

Guidelines

Article 145

1. Operations financed under this Decision shall be implemented by the relevant authorities of the OCT and the Community in close cooperation, the concept of equality between the partners being recognized.

2. The relevant authorities of the OCT shall be responsible for:

(a) defining the objectives and priorities on which the indicative programmes are based;

(b) choosing projects and programmes;

(c) preparing and presenting the dossiers of projects and programmes;

(d) preparing, negotiating and concluding contracts;

(e) implementing and managing projects and programmes;

(f) maintaining projects and programmes.

3. The relevant authorities of the OCT and the Community shall be jointly responsible for:

(a) establishing, where necessary, guidelines for development finance cooperation in the framework of the partnership referred to in Part Five;

(b) adopting the indicative programmes;

(c) appraising projects and programmes;

(d) ensuring equality of conditions for participation in invitations to tender and contracts;

(e) monitoring and evaluating the effects and results of projects and programmes;

(f) ensuring the proper, prompt and efficient execution of projects and programmes.

4. The Community shall be responsible for taking financing decisions on projects and programmes.

Article 146

Unless otherwise provided in this Decision, all decisions requiring the approval of a party to the association shall be approved, or be deemed approved, within 60 days of notification by the other party.

Section 4

Scope of financing

Article 147

Within the framework of the Decision, development finance cooperation shall cover:

(a) capital projects and programmes;

(b) rehabilitation of projects and programmes;

(c) sectoral-type programmes;

(d) technical cooperation programmes;

(e) deployment of flexible resources in support of the efforts of grassroots communities;

(f) recurrent costs (including current administrative, operating, and maintenance costs, both local and foreign) of new, on-going and completed projects and programmes;

(g) on a case-by-case basis, supplementary expenses borne by the OCT arising out of, and strictly relating to, the administration and the supervision of projects and programmes financed by the European Development Fund, hereinafter referred to as the 'Fund';

(h) credit lines, and support of regional payment mechanisms and export credit operations in the OCT;

(i) equity participation;

(j) a combination of all or some of the above components integrated into sectoral development programmes.

Article 148

Sectoral import programmes shall be provided, upon request, from the resources of the indicative programme to support the measures taken by the relevant authorities

of the country or territory concerned in the sector or sectors for which the assistance is requested in accordance with Article 187. The purpose of import programmes is to contribute to the optimal functioning of the productive sectors of the economy, to assist in the expansion of production and export capacity, to facilitate the transfer or development of technology and to help meet basic human needs. Import programmes may include the financing of inputs to the productive system such as capital and intermediate goods, raw materials, spare parts, fertilizers, insecticides and supplies to improve health and education services and standards.

Article 149

Counterpart funds generated from various Community instruments shall, except where otherwise provided for, be used in a targeted way for the financing of local expenditure under:

(a) fund projects and programmes within the indicative programme;

(b) other agreed projects and programmes;

(c) specific budget headings under public expenditure programmes of the OCT such as those relating to health, education, training, job creation and protection of the environment.

Article 150

1. Recurrent cost financing (to cover current administrative, maintenance and operating expenses) may be granted to a country or territory 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 burden for the country or territory or other eligible beneficiaries. Such support may, for new, ongoing or past projects and programmes, cover current administrative, maintenance and operating expenses such as:

(a) expenditure incurred in the start-up period, for setting up, launching and operating the capital projects or programmes in question;

(b) the cost of operating, maintaining and/or managing capital projects and programmes implemented earlier.

2. Special treatment shall be accorded to the financing of recurrent costs in the least-developed OCT.

Article 151

The funds provided under this Decision may be used to cover the total costs of both the local and foreign expenditure of projects and programmes.

Section 5

Sectors of intervention

Article 152

1. Within the framework of the priorities established by the relevant authorities of the OCT concerned at local, national and regional level, support may be given to projects and programmes in every sector or area referred to in this Decision and may, *inter alia*, be in:

(a) agricultural and rural development, and in particular food self-sufficiency and food security programmes;

(b) industrialization, artisanal activities, energy, mining and tourism;

(c) economic and social infrastructure;

(d) structural improvement of the productive sectors of the economy;

(e) preservation and protection of the environment;

(f) prospecting for, exploration and exploitation of, natural resources;

(g) education and training programmes, basic and applied scientific research and technology, technological adaptation or innovation and the transfer of technology;

(h) industrial promotion and information;

(i) marketing and trade promotion;

(j) promotion, development and reinforcement of small and medium-sized local, national and regional enterprises;

(k) support for local, national and regional development banks and financial institutions, and for clearing and payment institutions which are designed to promote regional trade;

(l) microprojects for grassroots development;

(m) transport and communications, including promotion of sea and air transport;

(n) fisheries development;

(o) development and optimal utilization of human resources, special account being taken of the role of women in development;

(p) improvement of social and cultural infrastructure and services including health, housing, water supply, etc.;

(q) assisting OCT, OCT-ACP and OCT-ACP-EEC professional and business organizations with the aim of improving production and marketing of products on external markets;

(r) investment promotion and support measures;

(s) support for development operations put forward by economic, cultural, social and educational organizations in the framework of decentralized cooperation, in particular where they combine the efforts and resources of OCT organizations and of their Community counterparts.

2. The projects and programmes may also concern operations on specific themes, such as:

(a) protection of natural resources;

(b) disaster prevention and preparedness, including prediction and early-warning systems, with a view to reducing the consequences of disasters;

(c) control of endemic human diseases and epidemics;

(d) hygiene and primary health care;

(e) control of endemic livestock diseases;

(f) measures to save energy;

(g) long-term operations, in general, which extend beyond any specific time-scale.

Section 6

Eligibility for financing

Article 153

1. The following entities or bodies shall be eligible for financial support provided under this Decision:

(a) OCT; however, Greenland shall not be eligible for financial aid as an OCT for the period of application of the Protocol on fisheries signed on 16 July 1990 by the European Economic Community on the one hand and the Government of Denmark and the local Government of Greenland on the other;

(b) regional or inter-State bodies to which one or more OCT belong and which are authorized by their relevant authorities;

(c) joint bodies set up by the Community and the OCT to pursue certain specific objectives.

2. Subject to the agreement of the relevant authorities of the country/countries or territory/territories concerned, the following shall also be eligible for financial support:

(a) local, national and/or regional public or semi-public agencies, departments or local authorities of the OCT and in particular their financial institutions and development banks;

(b) companies and firms of the OCT;

(c) enterprises of a Community Member State to enable them, in addition to their own contribution, to undertake productive projects in the territory of a country or territory;

(d) OCT or Community financial intermediaries providing financing to small and medium-sized enterprises, as well as financial institutions promoting and financing private investments in the OCT;

(e) groups of producers who are nationals of the OCT;

(f) award holders and trainees;

(g) OCT as well as Community local communities, cooperatives, trade unions, non-governmental organizations, and teaching and research institutions to enable them to undertake economic, cultural, social and educational projects and programmes in the OCT in the context of decentralized cooperation.

Chapter 2

Financial cooperation

Section 1

Financial resources

Article 154

1. For the purposes set out in Chapter 1 of this Title, and for a period of five years commencing on 1 March 1990, the overall amount of the Community's financial assistance shall be ECU 165 million.

This amount shall comprise:

(a) ECU 140 million from the Fund, allocated as follows:

(i) for the purposes set out in Articles 143, 144 and 147, ECU 106,5 million in the form of grants;

(ii) for the purposes set out in Articles 143, 144 and 147, ECU 25 million in the form of risk capital;

(iii) for the purposes set out in Articles 114 to 136, ECU 6 million in the form of grants under the Stabex facility;

(iv) for the purposes set out in Articles 137 to 142, ECU 2,5 million in the form of grants under the Sysmin facility;

(b) for the purposes set out in Articles 143, 144 and 147, ECU 25 million from the Bank in the form of loans from own resources in accordance with the terms and conditions provided for by its statute. These loans shall be subject to the provisions of Article 157 on interest rate subsidies.

2. The amount referred to in paragraph 1 (a) (i) shall be allocated as follows:

(a) ECU 86 million to finance projects and programmes, which shall be broken down as follows:

(i) United Kingdom OCT: ECU 15,5 million;

(ii) French OCT: ECU 40,2 million;

(iii) Dutch OCT: ECU 30,3 million;

(b) ECU 11,5 million to finance regional projects and programmes in the OCT, including regional programmes to develop trade and services under Article 85;

(c) ECU 6 million to finance the interest rate subsidies referred to in Article 157;

(d) a special allocation of ECU 3 million, of which:

(i) ECU 2,5 million for emergency aid as provided for in Article 164, and

(ii) ECU 0,5 million to aid refugees, returnees and displaced persons as provided for in Article 165;

(iii) should the appropriations provided for under one of the Articles referred to above be exhausted before the expiry of this Decision, transfers may be made from the appropriations provided for in the other Article;

(iv) on the expiry of this Decision, appropriations not committed for emergency assistance or aid for refugees, returnees and displaced persons shall be returned to the Fund for the purpose of financing other operations coming within the scope of development finance cooperation, unless the Council decides otherwise;

(v) should all the special appropriations be used before the expiry of this Decision, the Council shall adopt, on a proposal from the Commission, appropriate measures to deal with the situations referred to in Articles 164 and 165.

3. The Bank shall administer loans from its own resources, including interest rate subsidies, and risk capital. All other financial resources provided for in this Decision shall be administered by the Commission.

4. Further amounts of Community financing shall be adopted for the second five-year period covered by this Decision.

Section 2

Terms and conditions of financing

Article 155

1. Projects or programmes may be financed by grant or by risk capital from the Fund, or by loans from the Bank's own resources, or jointly by two or more of these means of financing.

2. The methods of financing for each project or programme shall be determined jointly by the relevant authorities of the country or territory or countries and territories concerned and the Community by reference to:

(a) the level of development, the geographical situation and economic and financial circumstances of these OCT;

(b) the nature of the project or programme, its likely economic and financial return as well as its social and cultural impact; and

(c) in the case of loans, factors guaranteeing their servicing.

3. Financial assistance may be made available to or through the OCT concerned or, subject to their agreement, either through eligible financial institutions or directly to any other eligible beneficiary.

4. Where financial assistance is granted to the final recipient through an intermediary:

(a) the terms on which the assistance may be made available by the intermediary to the final recipient shall be laid down in the financing agreement or loan contract; and

(b) any financial benefit accruing to the intermediary from the transaction shall be used for development purposes, on the terms laid down in the financing agreement or the loan contract, after taking into account administrative costs, exchange and financial risks, and the cost of technical assistance given to the final recipient.

Article 156

1. Risk capital may be provided in the form of loans or equity participation.

(a) In the case of loans, it may be provided mainly in the form of:

(i) subordinated loans, which shall be redeemed and in respect of which interest, if any, shall be paid only after other claims have been settled;

(ii) conditional loans, the servicing and/or the duration of which shall be linked to the fulfilment of certain conditions with regard to the performance of the project financed such as profit or target output. The specific terms shall be laid down when the loan is made;

(b) in the case of equity participation, it may be provided to acquire temporary minority holdings on behalf of the Community in the capital of OCT enterprises or institutions financing development projects in the OCT or of OCT financial institutions promoting and financing private investment in the OCT. Such holdings shall be transferred to inhabitants or institutions of the OCT or as otherwise agreed with the relevant authorities of the country or territory concerned, once the conditions specified for the purpose are met;

(c) the terms of risk capital operations shall depend on the characteristics of each project or programme financed and shall in general be more favourable than those of subsidized loans. In the case of loans the interest rate shall not, in any case, exceed 3 %.

2. In order to minimize the effects of exchange rate fluctuations, the problem of exchange rate risk shall be dealt with in the following way:

(a) in the case of risk capital operations designed to strengthen an enterprise's own funds, the exchange rate risk shall as a general rule be borne by the Community;

(b) in the case of risk capital financing for investment by private sector firms and small and medium-sized enterprises, hereinafter referred to as 'SMEs', the exchange rate risk shall be shared by the Community, on the one hand, and by the other parties involved, on the other. On average, the foreign exchange risk shall be shared equally.

Article 157

Loans from the Bank's own resources shall be granted on the following terms and conditions:

(a) the rate of interest before subsidy shall be the rate applied by the Bank for the currencies, duration and repayment conditions adopted for the loan on the day of signature of the contract;

(b) this rate shall be reduced by means of a 4 % subsidy. The rate of subsidy shall be automatically adjusted so that the interest rate borne by the borrower will be neither less than 3 % nor more than 6 % for a loan contracted at the reference rate. The reference rate adopted for calculating the adjustment in the rate of subsidy shall be the rate for the ecu applied by the Bank for a loan with the same conditions as to duration and repayment on the day of signature of the contract;

(c) the amount of the interest rate subsidy calculated in terms of its value at the times of disbursement of the loan shall be charged against the amount of grants and paid direct to the Bank;

(d) 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, but may not exceed 25 years. These loans shall normally comprise a period of grace fixed by reference to the construction period and the cash flow needed for the project.

Article 158

The Bank shall:

(a) contribute, through the resources it manages, to the economic and industrial development of the OCT and on a regional scale; and to this end, finance in the first place, productive projects and programmes in industry, agro-industry, tourism, mining and energy and in transport and telecommunications linked to these sectors. These sectoral priorities shall not exclude the possibility of the Bank's financing, from its own resources, productive projects and programmes in other sectors, including commercial agriculture;

(b) establish close cooperation links with local and regional development banks and with banking and financial institutions of the OCT;

(c) in consultation with the relevant authorities of the country or territory concerned, adapt the arrangements and procedures for implementing development finance cooperation, as set out in this Decision, if necessary, to take account of the nature of the projects and programmes and to act in accordance with the objectives of this Decision, within the framework of the procedures laid down by its statute.

Article 159

The relevant authorities of the OCT concerned shall, in respect of loans granted or equity participation under this Decision, and in respect of which they have given their written approval:

(a) grant exemption from all national or local taxes, fiscal charges on interest, commissions and amortization of loans due in accordance with the law or laws of the country or territory concerned;

(b) place at the disposal of the beneficiaries the currency necessary for the payment of interest, commission and the amortization of loans due under financing contracts granted for the implementation of projects and programmes on their territories;

(c) make available to the Bank the foreign currency necessary for the transfer of all sums received by it in national currency at the exchange rate applicable between the ecu, or other currencies of transfer, and the national currency at the date of the transfer, which represent the net revenue and proceeds from transactions involving the acquisition by the Community of holdings in the capital of companies or firms.

Article 160

Special treatment shall be accorded to the least-developed OCT when determining the volume of the financial resources which such OCT may expect from the Community for the purpose of their indicative programmes. These financial resources shall be combined with more favourable terms of financing, having regard to the economic situation and the nature of the needs specific to each country or territory. They shall consist essentially of grants, and, in appropriate cases, of risk capital or loans from the Bank, having regard in particular to the criteria laid down in Article 155 (2).

Section 3

Cofinancing

Article 161

1. The financial resources provided for in this Decision may be applied, at the request of the relevant authorities of the OCT, to cofinancing (undertaken in particular with development agencies and institutions, Community Member States, OCT, ACP States, third countries or international or private financial institutions, firms, or export credit agencies).

2. Special consideration shall be given to the possibility of cofinancing in the following cases, among others:

(a) large-scale projects which cannot be financed exclusively by any one source of financing alone;

(b) projects in which Community participation, and an input of its project expertise, might facilitate the participation of other additional sources of finance;

(c) projects which may benefit from a blend of concessionary and non-concessionary financing;

(d) projects which may be broken down into subprojects which could be eligible for financing from different sources;

(e) projects for which a diversification of financing may lead to an advantageous solution from the point of view of the financing and investment costs and of other aspects of the implementation of the said projects;

(f) projects of a regional or inter-regional nature.

3. Cofinancing may be in the form of joint or parallel financing. Preference will be given in each case to the solution which is more suitable from the point of view of cost-effectiveness.

4. With the agreement of the parties concerned:

(a) measures shall be taken to coordinate and harmonize operations of the Community and those of other cofinancing bodies, in order to minimize the number of procedures to be undertaken by the relevant authorities of the OCT and to render those procedures more flexible, notably as regards:

(i) the needs of other cofinancing bodies and recipients;

(ii) the choice of projects to be cofinanced and the arrangements for carrying them out;

(iii) the harmonization of works, supply and services contracts rules and procedures;

(iv) the payment terms;

(v) the rules of eligibility and competition;

(vi) the margin of preference granted to OCT enterprises;

(b) the process of consultation and coordination with other donors and cofinanciers should be strengthened and developed, where possible, through the establishment of cofinancing framework agreements, and cofinancing policies and procedures should be reviewed to ensure effectiveness and the best terms possible;

(c) the Community may provide the other cofinancing bodies with administrative help or may act as a lead or coordinating agency for projects part-financed by it in order to facilitate the implementation of cofinanced projects or programmes.

Section 4

Microprojects

Article 162

1. In order to respond to the development needs of local communities, the Fund shall, at the request of the relevant authorities of the country or territory concerned, participate in the financing of microprojects at local level which:

(a) have an economic and social impact on the life of the people;

(b) meet a demonstrated and observed priority need; and

(c) will be undertaken at the initiative and with the active participation of the local community which will benefit therefrom.

2. Contributions for microprojects shall be made:

(a) by the local community concerned, in kind or in the form of services or cash and adapted to its capacity to contribute;

(b) by the Fund, in which case the contribution shall not normally exceed three-quarters of the total cost of each project and may not exceed ECU 300 000;

(c) exceptionally, by the country or territory concerned, either in the form of a financial contribution or through the use of public equipment or the supply of services.

3. The amounts representing the Fund's contribution shall be drawn from the grant allocation of the national indicative programme.

4. Special priority shall be accorded to the preparation and implementation of microprojects in the least-developed OCT.

Article 163

With the agreement of the relevant authorities of the OCT concerned, at the request of the local communities concerned in the OCT and in accordance with the provisions on multiannual microproject programmes in Article 196, OCT and Community non-profit-making organizations may, in addition to the possibilities of cofinancing, coordinate, supervise or implement individual microprojects and/or multiannual microproject programmes.

Section 5

Emergency aid

Article 164

1. Emergency aid shall be granted to OCT faced with serious economic and social difficulties of an exceptional nature resulting from natural disasters or extraordinary circumstances having comparable effects. This aid, which is intended to make, by the most suitable means, a real contribution to remedying the immediate difficulties:

(a) shall be sufficiently flexible to take any form adapted to the circumstances, including the supply of a wide range of relief goods and services and/or the distribution of cash to victims;

(b) may also cover the financing of immediate measures to make damaged structures and equipment operational again and to ensure minimum viability;

(c) shall be non-reimbursable and made available quickly and easily.

2. The Community shall take adequate steps to facilitate speedy action which is required to meet the immediate needs for which emergency aid is intended. To this end:

(a) funds provided under emergency aid must be fully committed and disbursed and action completed within 180 days of the establishment of the implementation arrangements unless otherwise stipulated by common agreement;

(b) where the funds made available have not all been fully disbursed within the time-limit set, or such other agreed time-limit as referred to in paragraph (a), the balance shall be paid back into the special appropriation referred to in Article 154 (2) (d);

(c) the detailed rules for the allocation and implementation of emergency aid shall be the subject of emergency and flexible procedures;

(d) funds may be used for the retroactive financing of immediate relief measures undertaken by the OCT themselves.

Article 165

1. Assistance may be granted to OCT taking in refugees or returnees to meet acute needs not covered by emergency assistance, and to implement in the longer term projects and action programmes aimed at self-sufficiency and the integration or reintegration of such people.

2. Similar assistance, as set out in paragraph 1, may be envisaged to help with the voluntary integration or reintegration of persons who have had to leave their homes as a result of conflicts or natural disasters. In implementing this provision account shall be taken of all the factors leading to the displacement in question, including the wishes of the population concerned and the responsibilities of the government in meeting the needs of its own people.

3. Underlining the developmental nature of the assistance granted under this Article, assistance may be combined with the indicative programme funds of the country or territory concerned.

4. Such assistance shall be administered and implemented under procedures permitting flexibility and rapid action. Special attention shall be paid to the most effective manner of providing such assistance to the population concerned. Conditions for payment and implementation shall be laid down case by case. The assistance may be implemented, if the relevant authorities of the country or territory so agree, in conjunction with specialized organizations, including those of the United Nations, or by the Commission direct.

Article 166

Emergency assistance contracts shall be awarded on the basis of the relevant rules provided for in Chapter 5, Section 5.

Article 167

Post-emergency action, aimed at physical and social rehabilitation necessary as a result of natural disasters or extraordinary circumstances having comparable effects, may be undertaken with Community assistance under this Decision. Post-emergency needs may be covered by other resources, in particular the counterpart funds generated by Community instruments, the special appropriation for refugees, returnees, and displaced persons, the indicative programmes of the OCT or a combination of these different elements.

These needs may also be covered, subject to the provisions of Article 154 (2) (d), by the unexpended balance of the special appropriation for emergency assistance remaining upon expiry of this Decision.

Chapter 3

Investment

Section 1

Investment promotion

Article 168

The relevant authorities of the OCT and the Community, recognizing the importance of private investment in the promotion of their development cooperation and acknowledging the need to take steps to promote such investment, shall:

(a) implement measures to encourage participation in their development efforts by private investors who comply with the objectives and priorities of EEC-OCT development cooperation and with the appropriate laws and regulations;

(b) accord fair and equitable treatment to such investors;

(c) take measures and actions which help to create and maintain a predictable and secure investment climate as well as enter into negotiations on agreements which will improve such a climate;

(d) promote effective cooperation amongst OCT economic operators and between them and those of the Community in order to increase the flow of capital, management skills, technology and other forms of know-how;

(e) facilitate a greater and more stable flow of resources from the Community private sector to the OCT by contributing to the removal of obstacles which impede the OCT's access to international capital markets, and in particular within the Community;

(f) create an environment which encourages the development of financial institutions and the mobilization of resources which are essential to capital formation and the growth of entrepreneurship;

(g) promote the development of enterprises by taking such steps as are necessary to improve the business environment and, in particular, foster a legal, administrative and incentive framework which is conducive to the emergence and development of dynamic private sector enterprises including grassroots operations;

(h) strengthen the capacity of local institutions in the OCT to provide the range of services which can encourage greater local participation in business activity.

Article 169

In order to encourage private investment flows and the development of enterprises, efforts should be made under this Decision, in cooperation with other interested bodies, to:

(a) support efforts aimed at promoting European private investment in the OCT by organizing discussions between any interested country or territory and potential investors on the legal and financial framework that the OCT might offer to investors;

(b) encourage the flow of information on investment opportunities by organizing investment promotion meetings, providing periodic information on existing financial or other specialized institutions, their facilities and conditions and encouraging the establishment of focal points for such meetings;

(c) encourage the dissemination of information on the nature and availability of investment guarantees and insurance mechanisms to facilitate investment in the OCT;

(d) provide assistance to SMEs in the OCT in drawing up and obtaining equity and loan financing on optimal terms and conditions;

(e) explore ways and means of overcoming or reducing the host country risk for individual investment projects which could contribute to economic progress;

(f) provide financial and technical assistance to the OCT in:

(i) creating or strengthening their capacity to improve the quality of feasibility studies and the preparation of projects in order that appropriate economic and financial conclusions might be drawn;

(ii) producing integrated project management mechanisms covering the entire project development cycle within the framework of the development programme of the country or territory.

Section 2

Investment financing

Article 170

1. With a view to assisting the implementation of directly productive investment, both public and private, contributing to the economic and industrial development of the OCT, the Community shall provide financial assistance, subject to the provisions laid down in Chapter 2 of this Title, in the form of risk capital and/or loans from the Bank's own resources. This financial assistance may be used, *inter alia*, for:

(a) increasing, directly or indirectly, the own resources of public, semi-public or private enterprises of the OCT and providing financing in the form of loans for investment in such enterprises;

(b) supporting productive investment projects and programmes identified and promoted by the Centre for the Development of Industry and the Technical Centre for Agricultural and Rural Cooperation;

(c) financing schemes in favour of SMEs.

2. In order to achieve the objectives set out in paragraph 1, a significant part of risk capital shall be devoted to supporting private sector investment.

Article 171

In addition to the resources provided for above, the relevant authorities of the country or territory or countries or territories may use the resources of the indicative or regional programme, *inter alia*, for:

(a) financing schemes in favour of SMEs;

(b) encouraging the setting-up or the strengthening of local or regional financial institutions in order to enable them effectively to support private sector needs;

(c) appropriate and effective support for export promotion;

(d) providing general or specific technical cooperation to cater for private sector needs.

Article 172

The financing of directly productive projects may concern new investment as well as the rehabilitation or utilization of existing capacity.

Article 173

Where the financing is undertaken through an on-lending body, it shall be the responsibility of that body to select and appraise individual projects and to administer the funds placed at its disposal in accordance with the provisions of this Decision and by mutual agreement between the relevant authorities of the OCT and the Community.

Section 3

Investment support

Article 174

In order to attain effectively the various objectives of this Decision in respect of private investment promotion and to achieve a multiplier effect, the Bank and/or the Commission shall contribute:

(a) financial assistance, including equity holdings;

(b) technical assistance;

(c) advisory services;

(d) information and coordination services.

Article 175

1. The Bank shall utilize risk capital resources to supplement the activities aimed at promoting and providing support for the private sectors in the OCT. To this end, risk capital may be used to:

(a) provide direct loans for the investment in public, semi-public and private enterprises, including SMEs, of the OCT;

(b) increase the own resources, or resources treated as such, of public, semi-public or private enterprises through direct holdings in the name of the Community;

(c) take shares, with the agreement of the relevant authorities of the OCT concerned, in the capital of financial institutions promoting private investment in OCT;

(d) provide finance for OCT financial institutions or, with the agreement of the relevant authorities of the country or territory concerned, for OCT and/or Community promoters wishing to invest, in addition to their own contribution, in EEC-OCT joint ventures in order to reinforce the own resources of OCT enterprises;

(e) with the agreement of the relevant authorities of the country or territory or countries or territories concerned, assist financial intermediaries of the OCT or the Community involved in financing SMEs in the OCT to:

(i) acquire shareholdings in SMEs of the OCT;

(ii) finance shareholdings in SMEs of the OCT by OCT private investors and/or Community promoters in accordance with subparagraph (d);

(iii) on-lend in order to finance investment in SMEs of the OCT;

(f) assist with the restructuring or recapitalization of financial institutions of the OCT;

(g) finance specific studies, research or investment for the preparation and identification of projects; provide assistance, including training, management and investment-related services, to enterprises in the context of the Bank's operations during the pre-investment period or for rehabilitation purposes and, where appropriate, contribute to the start-up costs, including investment guarantee and insurance premiums, necessary to ensure that the investment decision is taken.

2. Where appropriate, loans to finance investment, both directly or indirectly, as well as of sectoral support programmes, shall be provided from the Bank's own resources.

Article 176

The relevant authorities of the OCT may, to encourage the promotion and development of their respective private sectors, use the resources of the indicative programme for:

(a) supporting the development of enterprises, by providing training, assistance in financial management and project preparation, specialized business start-up services and development and management services, and by encouraging technology transfers;

(b) providing appropriate and effective support for investment promotion, including the provision of assistance to promoters;

(c) supporting the setting-up or the strengthening of local or regional financial institutions in the OCT to finance export operations;

(d) financing imports of intermediate materials needed for the export industries of a country or territory which so requests;

(e) credit lines for SMEs;

(f) providing appropriate and effective support for export promotion;

(g) supporting the improvement of the investment climate including the legal and fiscal framework for business, and the development of services in support of the enterprise sector so as to provide enterprises with advisory services in the legal, technical and managerial fields;

(h) providing technical cooperation to reinforce the activities of bodies in the OCT working for the development of SMEs;

(i) implementing appropriate programmes for vocational training and developing the capacity of individual entrepreneurs, particularly in the small-scale and informal sectors;

(j) providing assistance for the mobilization of local savings, development of financial intermediaries and of new financial instruments, rationalization of enterprise promotion policies and encouragement of foreign investment;

(k) financing ventures undertaken by cooperatives or local communities in the OCT and the creation or strengthening of guarantee funds for SMEs.

Article 177

In order to mobilize external investment resources, both private and public, particular efforts should be made to exploit the possibilities of cofinancing or attracting

parallel financing for the various projects or programmes.

Article 178

In assisting the efforts of the relevant authorities of the OCT to invest in PMDT, in accordance with Title II, particular attention shall be paid to supporting optimal use of existing capacity of the country or territory concerned and the needs for rehabilitation.

Article 179

In order to support the promotion of investment in the OCT and with due regard to the complementarity of their roles, the Commission and the Bank shall closely coordinate their activities in this field.

The Commission and the Bank shall, with the assistance of Member States and the OCT, ensure effective coordination at the operational level among all parties involved in supporting investment in the OCT.

Section 4

Current payments and capital movements

Article 180

1. With regard to capital movements linked with investment and to current payments, the relevant authorities of the OCT and the Member States of the Communities shall refrain from action in the field of foreign exchange transactions which would be incompatible with their obligations under this Decision resulting from the provisions on trade in goods and services, establishment and industrial cooperation. These obligations shall not, however, prevent the adoption of the necessary protection measures should they be justified by reasons relating to serious economic difficulties or severe balance-of-payments problems.

2. In respect of foreign exchange transactions linked with investment and current payments, the OCT, 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.

In the event of such measures or treatment becoming unavoidable, they shall be maintained or introduced in accordance with accepted international monetary rules and every effort shall be made to minimize any adverse effects on the parties affected.

Chapter 4

Technical cooperation

Article 181

Technical cooperation shall assist the OCT in the development of their local and regional manpower resources and the sustained development of their institutions, and contribute to the achievement of project and programme goals. To this end:

(a) support through the provision of technical assistance shall be made available only at the request of the relevant authorities of the country or territory or countries or territories concerned;

(b) technical cooperation shall be cost-effective and relevant to the need for which it is intended, and also facilitate the transfer of know-how and increase local and regional capabilities;

(c) efforts shall be made to encourage the participation of OCT experts, consultancy firms, educational and research institutions in contracts financed by the Fund and to make greater use of OCT manpower through the secondment of OCT local officials as consultants to an institution in their own country or territory or a neighbouring country or territory, or to a regional organization;

(d) the OCT may, on a local or regional basis, use the instruments and resources of development finance cooperation to develop knowledge of local and regional manpower constraints and potential, establish a register of OCT experts, consultants and consultancy firms suitable for employment on Fund projects and programmes, and identify ways of employing qualified local and regional personnel on Fund projects;

(e) technical assistance between the OCT and between the OCT and ACP States shall be supported through the instruments of development finance cooperation in order to enable the OCT to exchange with each other and with the ACP States technical assistance and management experts;

(f) action programmes for long-term institution building and staff development shall be an integral part of project and programme planning, account being taken of the necessary financial requirements;

(g) with a view to reversing the brain drain from the OCT, the Community shall assist the relevant authorities of the OCT which so request in facilitating

the return of qualified OCT inhabitants resident in developed countries through appropriate resettlement incentives;

(h) project and programme appraisal shall take due account of local human resources constraints and ensure a strategy favourable to the promotion of such resources;

(i) technical assistance personnel shall be qualified for the specific tasks as defined in the request from the country or territory or countries or territories and shall be integrated within the beneficiary OCT institution;

(j) the effective training of local personnel shall be part of the assignment of technical assistance personnel in order to phase out technical assistance and to use exclusively and permanently local personnel for staff projects;

(k) cooperation shall include arrangements to enhance the capacity of the OCT to build up their own expertise and improve the technical skills of their own consultants, consulting companies or firms;

(l) special attention should be given to the development of the OCT's capacities in project and programme planning, implementation and evaluation.

Article 182

1. Technical cooperation may be of a general or specific nature.

2. Technical cooperation of a general nature shall include, *inter alia:*

(a) development studies, studies on prospects and resources for economic development and diversification in the OCT, and on problems of interest to the OCT as a whole or to any group of OCT;

(b) sectoral or product studies;

(c) the provision of experts, advisers, technicians and instructors for specific assignments and for limited periods;

(d) the supply of teaching, experimental, research and demonstration equipment;

(e) general information and documentation, including statistics, to promote the development of the OCT and achieve the aims of cooperation;

(f) exchanges of executive and specialized staff, students, research workers, motivators and heads of social or cultural groups or associations;

(g) the granting of study or training awards, particularly to persons already in employment and requiring further training;

(h) the organization of seminars or sessions for training, further training and information;

(i) the setting-up or strengthening of information and documentation instruments, particularly for exchanges of know-how, methods and experience between the OCT and between them and the ACP States and the Community;

(j) cooperation between or twinning of institutions of the OCT, the ACP States and the Community, particularly universities and other training and research establishments;

(k) support for significant cultural events.

3. Technical cooperation related to specific operations shall include, *inter alia:*

(a) technical, economic, statistical, financial and commercial studies, and research and surveys required to prepare projects or programmes, including those concerning investment;

(b) preparation of projects and programmes;

(c) execution and supervision of projects and programmes;

(d) implementation of temporary measures required for the establishment, launching, operation and maintenance of a specific project;

(e) monitoring and evaluation of operations;

(f) integrated training, information and research programmes.

Article 183

The Community shall take practical measures to increase and improve the information placed at the disposal of the relevant authorities of the OCT concerning the availability and qualifications of relevant consultants.

Article 184

1. The choice of whether to use the services of consultancy companies or firms or individual experts shall depend on the nature of the problems and the scale and complexity of the technical means and management resources required as well as the comparative cost of the two solutions. In addition, measures shall be taken to ensure that recruiters can distinguish clearly between different levels of competence and experience on an international level. The choice of contractors and their staff shall be governed by the following criteria:

(a) professional skills (technical and training ability) and human qualities;

(b) respect for the cultural values and the political and administrative circumstances of the country or territory or countries or territories concerned;

(c) knowledge of the language necessary for the execution of the contract;

(d) practical experience of problems of the type to be dealt with;

(e) cost.

2. The recruitment of technical cooperation staff, the establishment of the aims and functions and the duration of their missions, their remuneration and the ways in which they contribute to the development of the OCT to which they are assigned, must conform to the principles of technical cooperation policy laid down in Article 181. The procedures to be applied in this context must ensure objectivity in terms of the choice and quality of the services provided. The following principles shall therefore apply:

(a) recruitment shall be carried out by the OCT institutions that will use the technical assistance in accordance with the relevant provisions on competition and preference;

(b) efforts shall be made to facilitate direct contact between the candidate and the future user of the technical assistance;

(c) the use of alternative technical assistance delivery systems should be encouraged through the use of volunteers, non-governmental organizations, retired executives and twinning arrangements;

(d) when considering a request for technical assistance, the relevant authorities of the country or territory and the Commission delegation shall compare the costs and benefits of different ways of transferring technology and increasing capabilities;

(e) the tender dossier shall require each tenderer to indicate in his tender what methods he intends to adopt and what staff he intends to employ and the strategy for promoting OCT local and/or regional capabilities once the contract is put into effect;

(f) the Community shall provide the relevant authorities of the recipient OCT with detailed information on the full cost of technical assistance in order to enable the OCT to negotiate the contracts in a cost-effective manner.

Article 185

In order to enhance the OCT's capacity to build up their technical skills and improve the know-how of their consultants, cooperation partnership arrangements between consultancy firms, consulting engineers, experts and institutions of the Member States and of the OCT shall be encouraged. To this end, every effort shall be made to:

(a) encourage, by means of joint ventures, subcontracting or the use of experts who are nationals of the OCT in teams employed by consultancy firms, consulting engineers or institutions in the Member States;

(b) inform tenderers in the tender dossier of the selection criteria and preferences provided for in this Decision, particularly those relating to the encouragement of the use of OCT human resources.

Article 186

1. Subject to the provisions of this Chapter, the award of service contracts and the rules of competition and preference shall be in accordance with Section 5 of Chapter 5.

2. Technical cooperation shall provide support for educational and training operations and multiannual training programmes, including awards, as referred to in Title XI.

Chapter 5

Implementation procedures

Section 1

Programming

Article 187

1. At the beginning of the period covered by this Decision the authorities of France, the Netherlands and the United Kingdom shall give the Commission as soon

as possible a clear indication of the total programmable financial resources to be allocated for a period of five years to each country or territory for which they are responsible; these Member States shall also notify the relevant authorities of the OCT concerned at the same time.

2. In establishing these financial allocations the Member States shall take particular account of the needs of the least-developed OCT.

3. As soon as the financial allocation for each country or territory is known, the relevant authorities of each country or territory shall draw up and submit to the Community a draft indicative programme on the basis of and consistent with the development objectives and priorities of that country or territory. The draft indicative programme shall contain:

(a) the priority development objectives of the country or territory concerned at local and regional level;

(b) the focal sector or sectors for which support is considered the most appropriate;

(c) the most appropriate measures and operations for attaining the objectives in the focal sector or sectors;

(d) if possible, specific, clearly identified projects and programmes, and especially those which constitute a follow-up to existing projects and programmes;

(e) any proposals for regional projects and programmes.

Article 188

1. The draft indicative programme shall be the subject of an exchange of views between the relevant authorities of the country or territory concerned and the Community, due regard being given to the local needs of the country or territory; the indicative programme shall then be adopted by agreement between the Community and the relevant authorities of the country or territory concerned on the basis of the draft indicative programme proposed by those authorities. The indicative programme should preferably be adopted within no more than six months.

2. It shall specify, *inter alia:*

(a) the focal sector or sectors in which the Community's support will be given and the resources to be deployed for that purpose;

(b) the measures and actions necessary to achieve the objectives for the sectors agreed upon;

(c) the timetable of commitments and measures to be taken;

(d) the reserve set aside for insurance against possible claims, and to cover cost increases and contingencies;

(e) the projects and programmes outside the focal sector or sectors as well as the proposals for regional projects and programmes.

3. The indicative programme shall be sufficiently flexible to ensure that operations are kept constantly in line with objectives and to take account of any changes occurring in the economic situation, priorities and objectives of the country or territory. It may be revised at the request of the relevant authorities of the country or territory concerned.

Article 189

The Community and the relevant authorities of the OCT shall take all necessary measures to ensure that the indicative programmes are adopted in the shortest possible time, preferably within a year of the entry into force of this Decision.

Article 190

1. The indicative programme shall establish the overall amounts of programmable assistance which may be placed at the disposal of each country or territory. Programmable aid is made up only of the grants referred to in Article 154 (2) (a).

2. Any balance remaining from the Fund that has not been committed or disbursed by the end of the period laid down in Article 154 shall be utilized until it has been exhausted, in accordance with the same conditions as those laid down in this Decision.

3. A comparative account of commitments and payments shall be drawn up each year by the Local Authorizing Officer and the Commission Delegate, who shall take the necessary steps to ensure that the timetable of commitments agreed at the time of programming is adhered to and determine the causes of delays recorded in their execution so that the necessary remedial measures can be proposed.

Section 2

Project identification, preparation and appraisal

Article 191

The identification and preparation of projects and programmes shall be the responsibility of the relevant

authorities of the country or territory concerned or any other eligible beneficiary.

Article 192

Project or programme dossiers prepared and submitted for financing must contain all information necessary for the appraisal of the projects or programmes or, where such projects and programmes have not been completely defined, provide the broad outlines necessary for their appraisal. Such dossiers shall be officially transmitted to the Community by the relevant authorities of the OCT or the other beneficiaries in accordance with this Decision. In the case of beneficiaries other than OCT, the express agreement of the relevant authorities of the country or territory concerned shall be required.

Article 193

1. The appraisal of projects and programmes shall be undertaken jointly by the relevant authorities of the country or territory or countries or territories and the Community. In order to expedite the procedure, the Commission shall give the necessary powers to its Delegate to undertake this joint appraisal; if the country or territory is in an area where the Commission has not appointed a delegate, the appraisal shall be carried out by the Commission and the authorities of the Member State responsible for the country or territory, which shall ensure liaison with the relevant authorities of the country or territory concerned.

2. Project and programme appraisal shall take into account the specific characteristics and constraints of each country or territory as well as the following factors:

(a) effectiveness and viability of the operations requested and the returns thereon, if possible on the basis of a cost-benefit analysis, possible variants being examined;

(b) cultural, social, gender and environmental aspects, both direct and indirect, and impact on the population;

(c) availability of local manpower and other resources necessary to implement, operate and maintain the projects and programmes;

(d) training and institutional development necessary to achieve project or programme goals;

(e) burden of recurrent cost on the recipient;

(f) local commitments and efforts;

(g) experience gained from operations of the same kind;

(h) results of studies already undertaken on similar projects or programmes in order to expedite implementation and minimize costs.

3. The specific difficulties and constraints of the least-developed OCT which affect the effectiveness, viability and economic return of projects and programmes shall be taken into account when the said projects and programmes are appraised.

Section 3

Financing proposal and decision

Article 194

1. The conclusions of the appraisal shall be summarized by the Delegate, except in the case referred to in Article 193, in a financing proposal in close collaboration with the Local Authorizing Officer.

2. The financing proposal shall contain an advance timetable for the technical and financial implementation of the project or programme, and shall deal with the duration of the different phases of implementation.

3. The financing proposal shall:

(a) take into account the comments of the relevant authorities of the country or territory or countries or territories concerned;

(b) be forwarded by the Delegate simultaneously to the relevant authorities of the country or territory or countries or territories concerned and the Commission.

4. The Commission shall finalize the financing proposal and forward it, with or without amendment, to the Community's decision-making body. The relevant authorities of the country or territory or countries or territories concerned shall be given an opportunity to comment on any amendment of substance which the Commission intends to make to the document; these comments shall be reflected in the amended financing proposal.

Article 195

Subject to Article 194 (4), the Community's decision-making body shall communicate its decision within 120 days from the date of forwarding by the Delegate referred to in Article 194 (3) (b) or, in cases where no Delegate has been appointed, as referred to in Article 193, by the authorities of the Member State responsible for the country or territory in question.

Article 196

1. With a view to expediting procedures and in derogation from the provisions set out in Articles 194 and 195, financing decisions may deal with multiannual programmes where the financing concerns:

(a) training;

(b) microprojects;

(c) trade promotion;

(d) sets of operations of a limited scale in a specific sector;

(e) technical cooperation.

2. In these cases, the relevant authorities of the country or territory concerned may submit to the Delegate a multiannual programme setting out the broad outlines, the types of operations envisaged and the financial commitment proposed.

The financing decision on each multiannual programme shall be taken by the Chief Authorizing Officer. The letter from the Chief Authorizing Officer to the Local Authorizing Officer notifying such decision shall constitute the financing agreement within the meaning of Article 197.

Within the framework of multiannual programmes thus adopted, the Local Authorizing Officer shall implement each individual action in accordance with the relevant provisions of the Decision and the terms of the financing agreement referred to above.

At the end of each year, the Local Authorizing Officer, in consultation with the Delegate, shall forward a report to the Commission on the implementation of the programmes.

Section 4

Financing agreement and cost overruns

Article 197

1. For any project or programme financed by a grant from the Fund, a financing agreement shall be drawn up between the Commission and the relevant authorities of the country or territory or countries or territories concerned within 60 days of the decision of the Community's decision-making body.

2. The agreement shall specify in particular the details of the Fund's financial commitment, the financing arrangements and terms and the general and specific provisions relating to the project or programme concerned and shall also incorporate the advance timetable for the technical implementation of the project or programme contained in the financing proposal.

3. Financing agreements for all projects and programmes shall make adequate provision for appropriations to cover cost increases and contingencies.

4. Once the financing agreement has been signed, disbursements shall be made in accordance with the financing plan laid down therein.

5. Any unexpended balance left upon closure of the accounts of projects and programmes shall accrue to the country or territory concerned and shall be so specified in the Fund's books. It may be used in the manner laid down in this Decision for the financing of projects and programmes.

Cost overruns

Article 198

1. Once it appears that cost overruns beyond the limit set in the financing agreement are likely to occur, the Local Authorizing Officer shall, through the Delegate, notify the Chief Authorizing Officer accordingly, as well as of the measures which the Local Authorizing Officer intends to take in order to cover such cost overruns over the allocated appropriations, either by reducing the scale of the project or programme or by calling on local or other non-Community resources.

2. If it is decided by agreement with the Community not to scale down the project or programme or if it is not possible to cover them by other resources, then such overruns may be:

(a) covered by any unexpended balance left upon closure of projects and programmes from indicative programmes which has not been reallocated up to 20 % of the financial commitment for the project or programme concerned, or

(b) financed by the resources of the indicative programme.

Retroactive financing

Article 199

1. In order to ensure early project start-up, avoid gaps between sequential projects and prevent delays, the

relevant authorities of the OCT, in agreement with the Commission, may, on completion of project appraisal and before the financing decision is taken:

(i) issue invitations to tender for all types of contracts, with a suspension clause;

(ii) pre-finance, for a limited amount, activities linked to preliminary and seasonal work, orders for equipment with long delivery lead times as well as some ongoing operations. Such expenditures must satisfy the procedures provided for in the Decision.

2. These provisions shall be without prejudice to the powers of the Community's decision-making body.

3. Expenditure made by a country or territory pursuant to this Article shall be retroactively financed under the project or programme, once the financing agreement is signed.

Section 5

Competition and preferences

Eligibility

Article 200

Save where a derogation is granted in accordance with Article 202:

(a) participation in invitations to tender and the award of the contracts financed by the Fund shall be open on equal terms to:

(i) natural persons, companies or firms or public or semi-public agencies of the OCT, the ACP States and Community States;

(ii) cooperative societies and other legal persons governed by public or private law, save for those which are non-profit-making, of the Community, the OCT and/or the ACP States;

(iii) joint ventures or groupings of OCT, ACP and/or Community companies or firms;

(b) supplies must originate in the Community, the OCT and/or the ACP States.

Participation on equal terms

Article 201

The relevant authorities of the OCT and the Commission shall take the necessary measures to ensure the widest possible participation on equal terms in invitations to tender for works, supply and service contracts, including, as appropriate, measures to:

(a) ensure publication of invitations to tender in the *Official Journal of the European Communities*, the official journals of the OCT concerned and any appropriate information media, particularly in the OCT and the ACP States of the region;

(b) eliminate discriminatory practices or technical specifications which might stand in the way of widespread participation on equal terms;

(c) encourage cooperation between the companies and firms of the Member States, the OCT and the ACP States;

(d) ensure that all the selection criteria are specified in the tender dossier; and

(e) ensure that the tender selected conforms to the requirements of the tender dossier and meets the selection criteria stated therein.

Derogations

Article 202

1. In order to ensure the optimum cost-effectiveness of the system, natural or legal persons from non-ACP developing countries may be authorized to participate in contracts financed by the Community at the request of the relevant authorities of the OCT concerned. These authorities shall, on each occasion, provide the Delegate with the information needed for the Community to decide on such derogations, particular attention being given to:

(a) the geographical location of the country or territory concerned;

(b) the competitiveness of contractors, suppliers and consultants from the Community, the OCT and the ACP States;

(c) the need to avoid excessive increases in the cost of performance of the contract;

(d) transport difficulties or delays due to delivery times or other similar problems;

(e) technology that is the most appropriate and best suited to local conditions.

2. Participation by third countries in contracts financed by the Community may also be authorized:

(a) where the Community participates in the financing of regional or inter-regional schemes involving such countries;

(b) where projects and programmes are cofinanced;

(c) in the case of emergency assistance.

3. In exceptional cases and in agreement with the Commission, consultancy firms or experts of third countries may participate in service contracts.

Competition

Article 203

Save as provided for in Article 208, works and supply contracts financed from the Fund shall be concluded following an open invitation to tender and service contracts shall be concluded following a restricted invitation to tender.

Article 204

1. The relevant authorities of the country or territory or countries or territories may, in accordance with the provisions of paragraphs 2, 3 and 4 and of Article 205 and in agreement with the Commission:

(a) place contracts after restricted invitations to tender following, where applicable, calls for pre-qualification;

(b) conclude contracts by direct agreement;

(c) perform contracts through public or semi-public departments of the OCT.

2. Restricted invitations to tender may be used:

(a) where the urgency of the situation is established or where the nature, or certain particular characteristics of the contracts so warrant;

(b) for projects or programmes of a highly specialized nature;

(c) for large-scale contracts after prequalification.

3. Direct agreement contracts may be awarded in the following cases:

(a) small-scale operations, urgent situations or short-term technical cooperation schemes;

(b) emergency assistance;

(c) operations assigned to individual experts;

(d) operations which are complementary to or necessary for the completion of others already in hand;

(e) where the performance of the contract is exclusively reserved for holders of patents or licences to use, process or import the articles concerned;

(f) following an unsuccessful invitation to tender.

4. The following procedure shall apply for restricted invitations to tender and direct agreement contracts:

(a) in the case of works and supply contracts, a short-list of prospective tenderers shall be drawn up by the relevant authorities of the country or territory or countries or territories concerned in agreement with the Delegate following, where applicable, a call for prequalification;

(b) in the case of service contracts, the short-list of prospective tenderers shall be drawn up by the relevant authorities of the OCT in agreement with the Commission on the basis of the proposals of the relevant authorities of the country or territory or countries or territories concerned and the proposals submitted by the Commission;

(c) in direct agreement contracts, the relevant authorities of the country or territory shall enter freely into such discussions as they may consider appropriate with prospective tenderers they have short-listed in accordance with the paragraphs above and award the contract to the tenderers they have selected.

Direct labour

Article 205

1. Contracts shall be performed by direct labour through public or semi-public agencies or departments of the country or territory or countries or territories concerned, where the country or territory concerned has the qualified management staff available in its departments, in case of emergency assistance, service contracts and all other operations the estimated cost of which is less than ECU 5 million.

2. The Community shall contribute to the costs of the department involved by providing the equipment and/or

materials that it lacks and/or resources to allow it to acquire additional staff required in the form of experts from within the country or territory concerned or other OCT or ACP States. The Community contribution shall cover only costs incurred by supplementary measures and temporary expenditure relating to execution strictly confined to the requirements of the project in question.

Emergency assistance contracts

Article 206

Contracts under emergency assistance shall be undertaken in such a way as to reflect the urgency of the situation. To this end, for all operations relating to emergency assistance, the relevant authorities of the country or territory may, in agreement with the Delegate, authorize:

(a) the conclusion of contracts by direct agreement;

(b) the performance of contracts by direct labour;

(c) implementation through specialized agencies;

(d) direct implementation by the Commission.

Accelerated procedure

Article 207

1. With the aim of ensuring the rapid and effective implementation of projects and programmes, an accelerated tendering procedure shall be used except as otherwise indicated by the relevant authorities of the country or territory concerned or the Commission by way of a proposal for the agreement of the relevant authorities of the country or territory concerned. The accelerated procedure for issuing invitations to tender shall involve shorter time-limits for tendering and the call for tender shall be confined to the country or territory concerned and the neighbouring OCT or ACP States, in accordance with the rules in force in the country or territory concerned. The accelerated procedure shall apply in the following cases:

(a) works contracts, the estimated cost of which is less than ECU 5 million;

(b) emergency assistance, irrespective of the value of the contract.

2. By way of derogation, a Local Authorizing Officer, in agreement with the Delegate, may procure supplies and/or services for a limited amount where they are available in the OCT concerned or in neighbouring OCT or ACP States.

Article 208

In order to speed up the procedure, the relevant authorities of the OCT may request the Commission to negotiate, draw up and conclude service contracts on their behalf directly or through its relevant agency.

Preferences

Article 209

Measures shall be taken to encourage the widest participation of natural and legal persons of the OCT in the performance of contracts financed by the Fund in order to permit the optimization of the physical and human resources of those countries and territories. To this end:

(a) for works contracts of a value of less than ECU 5 million, tenderers of the OCT, provided that at least one quarter of the capital stock and management staff originates from one or more OCT, shall be accorded a 10 % price preference where tenders of an equivalent economic and technical quality are compared;

(b) for supply contracts, irrespective of the value of the supplies, tenderers of the OCT who offer supplies of at least 50 % in contract value of OCT origin shall be accorded a 15 % price preference where tenders of equivalent economic and technical quality are compared;

(c) in respect of service contracts, given the required competence, preference shall be given to experts, institutions or consultancy companies or firms of the OCT where tenders of equivalent economic and technical quality are compared;

(d) where subcontracting is envisaged, preference shall be given by the successful tenderer to natural persons, companies and firms of the OCT capable of performing the contract required on similar terms;

(e) the relevent authorities of the country or territory may, in the invitation to tender, propose to the prospective tenderers the assistance of other OCT or ACP companies or firms or national experts or consultants selected by mutual agreement. This cooperation may take the form either of a joint venture, or of a subcontract or of on-the-job training of trainees.

Selection

Article 210

1. The relevant authorities of the country or territory shall award the contract to the tenderer:

(a) whose tender satisfies the requirements laid down in the tender dossier;

(b) who, in the case of a works or supply contract, has offered the most advantageous tender as assessed, *inter alia*, on the basis of:

(i) the price and the operating and maintenance costs;

(ii) the qualifications of, and the guarantees offered by the tenderers, as well as the technical qualities of the tender, including the offer of an after-sales service in the country or territory;

(iii) the nature of the contract, the conditions and the time-limit for its execution, and the adaptation to local conditions;

(c) who, in the case of a service contract, offers the most advantageous tender taking into account, *inter alia*, the price, the technical value of the tender, the organization and the methods proposed for the provision of the services, as well as the competence, independence and availability of the personnel proposed.

2. Where two tenders are acknowledged to be equivalent on the basis of the criteria stated above, preference shall be given:

(a) to the tenderer of a country or territory or an ACP State, or

(b) if no such tender is forthcoming, to the tenderer who permits the best possible use of the physical and human resources of the OCT.

General regulations

Article 211

The award of contracts financed from the resources of the Fund shall be governed by this Decision and the general regulations which shall be adopted, on a proposal by the Commission, by decision of the Council.

General conditions

Article 212

Performance of works, supply and service contracts financed from the resources of the Fund shall be governed by:

(a) the general conditions applicable to contracts financed by the Fund which shall be adopted, on a proposal from the Commission, by decision of the Council; or

(b) in the case of cofinanced projects and programmes or the granting of derogations to third parties or accelerated procedures or other appropriate cases, such other general conditions as may be agreed by the relevant authorities of the country or territory concerned and the Community, i.e.:

(i) the general conditions prescribed by the national legislation of the country or territory concerned or its established practices regarding international contracts; or

(ii) any other international general conditions for contracts.

Settlement of disputes

Article 213

Any dispute arising between the authorities of a country or territory and a contractor, supplier or provider of services during the performance of a contract financed by the Fund shall:

(a) in the case of a local contract, be settled in accordance with the legislation of the country or territory concerned, and

(b) in the case of a transnational contract, be settled by arbitration in accordance with the procedural rules to be adopted by the Council on a proposal from the Commission.

Section 6

Tax and customs arrangements

Article 214

The OCT shall apply to contracts financed by the Community tax and customs arrangements no less favourable than those applied by them to the most-favoured States or international development organizations with which they have relations. For the purpose of determining the most-favoured-nation treatment, account shall not be taken of arrangements applied by the relevant authorities of the country or territory concerned to other developing countries.

Article 215

Subject to Article 214, the following shall apply to contracts financed by the Community:

(a) the contract shall not be subject in the beneficiary country or territory to stamp or registration duties or to fiscal charges having equivalent effect, whether such charges already exist or are to be instituted in the future; however, such contracts shall be registered in accordance with the laws in force in the country or territory and a fee corresponding to the service rendered may be charged for it;

(b) profits and/or income arising from the performance of contracts shall be taxable according to the internal fiscal arrangements of the country or territory concerned, provided that the natural or legal persons who realize such profit and/or income have a permanent place of business in that country or territory, or that the performance of the contract takes longer than six months;

(c) enterprises which must import equipment in order to carry out works contracts shall, if they so request, benefit from the system of temporary admission as laid down by the legislation of the beneficiary country or territory in respect of the said equipment;

(d) professional equipment necessary for carrying out tasks defined in a service contract shall be temporarily admitted into the beneficiary country or territory in accordance with the legislation of that country or territory free of fiscal, import and customs duties and of other charges having equivalent effect where these duties and charges do not constitute remuneration for services rendered;

(e) imports under supply contracts shall be admitted into the beneficiary country or territory without customs duties, import duties, taxes or fiscal charges having equivalent effect. The contract for supplies originating in the country or territory concerned shall be concluded on the basis of the ex-works price of the supplies, to which may be added such internal fiscal charges as may be applicable to those supplies in the country or territory;

(f) fuels, lubricants and hydrocarbon binders and, in general, all materials used in the performance of works contracts shall be deemed to have been purchased on the local market and shall be subject to fiscal rules applicable under the legislation in force in the beneficiary country or territory;

(g) personal and household effects imported for use by natural persons, other than those recruited locally, engaged in carrying out tasks defined in a service contract and members of their families, shall be exempt from customs or import duties, taxes and other fiscal charges having equivalent effect, within the limits of the legislation in force in the beneficiary country or territory.

Article 216

1. Any matter not covered by Articles 214 and 215 shall remain subject to the legislation of the country or territory concerned.

2. Tax arrangements affecting Commission Delegates and delegation staff are dealt with in Article 222.

Chapter 6

Management and executing agents

Section 1

Chief Authorizing Officer

Article 217

1. The Commission shall appoint the Chief Authorizing Officer of the Fund, who shall be responsible for managing the resources of the Fund.

2. The Chief Authorizing Officer shall:

(a) commit, clear and authorize expenditure and keep accounts of commitments and authorizations;

(b) ensure that financing decisions are carried out;

(c) in close cooperation with the Local Authorizing Officer make commitment decisions and financial arrangements that prove necessary to ensure proper execution of approved operations from the economic and technical viewpoints;

(d) approve the tender dossier before invitations to tender are issued, subject to the powers exercised by the Delegate pursuant to Article 223;

(e) ensure publication in reasonable time of invitations to tender in accordance with Article 201;

(f) approve the proposal for the placing of the contract, subject to the powers exercised by the Delegate pursuant to Article 223.

3. The Chief Authorizing Officer shall, at the end of each year, make available a detailed balance sheet of the Fund showing balances of contributions paid into the Fund by the Member States, global disbursements in respect of each financing heading including regional cooperation, emergency assistance, Stabex and Sysmin.

Section 2

Local OCT Authorizing Officer

Article 218

1. The relevant authorities of each country or territory shall appoint a Local Authorizing Officer to represent them in all operations financed from the resources of the Fund managed by the Commission. The Local Authorizing Officer shall also be kept informed of operations financed from the resources managed by the Bank.

2. The Local Authorizing Officer may delegate some of these functions and shall inform the Chief Authorizing Officer of any such delegation.

Article 219

1. The Local Authorizing Officer shall:

(a) in close cooperation with the Commission Delegate, be responsible for the preparation, submission and appraisal of projects and programmes;

(b) in close cooperation with the Delegate, issue invitations to tender, receive tenders, preside over the examination of tenders, establish the results of this examination, sign contracts and riders thereto, and approve expenditure;

(c) submit, before issuing invitations to tender, the invitation to tender dossier to the Delegate, who shall give his agreement within the time-limit set in Article 223;

(d) complete the evaluation of tenders within the tender validity period, taking into consideration the period required for the approval of contracts;

(e) transmit the result of the examination of the tenders and a proposal for award of the contract to the Delegate who shall, within 30 days or such other time-limit as set out in Article 223, give his approval;

(f) clear and authorize expenditure within the limits of the funds assigned to him;

(g) during the execution operations, make any adaptation arrangements necessary to ensure the proper execution of approved projects or programmes from the economic and technical viewpoint.

2. The Local Authorizing Officer shall, during the execution of operations and subject to the requirement to inform the Delegate, decide on:

(a) technical adjustments and alterations in matters of detail, so long as they do not affect the technical solution adopted and remain within the limits of the reserve for adjustments;

(b) alterations to estimates during execution;

(c) transfers from item to item within estimates;

(d) changes of site for multiple-unit projects or programmes where justified on technical, economic or social grounds;

(e) imposition 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, the OCT or the ACP States provided there is no production of comparable equipment and machinery in the Member States, the OCT or the ACP States;

(i) subcontracting;

(j) final acceptance, provided that the Delegate is present at provisional acceptance, endorses the corresponding minutes and, where appropriate, is present at the final acceptance, in particular where the extent of the reservations recorded at the provisional acceptance necessitates major additional work;

(k) hiring of consultants and other technical assistance experts.

Article 220

All documents and proposals submitted by the Local Authorizing Officer to the Commission or the Commission Delegate for agreement or approval in accordance with this Decision shall be approved or deemed to be approved within the time-limits laid down by this Decision, or within 30 days, where no time-limit is stated in the Decision.

Article 221

At the end of each year, the Local Authorizing Officer shall prepare a report on the operations covered by the

indicative programme or regional programmes in that country or territory. The report shall include, *inter alia:*

(a) the report referred to in Article 190 relating to commitments, disbursements and the implementation timetable for the indicative programme and a progress report on projects and programmes;

(b) commitments, disbursements, implementation timetable and progress on regional projects and programmes in that country or territory;

(c) in consultation with the Commission Delegate, the report referred to in Article 196 relating to multiannual programmes;

(d) an assessment of the financial and technical cooperation operations in the country or territory, including regional programmes.

A copy of the report shall be submitted to the Delegate not later than 90 days after the end of the year under review.

Section 3

The Delegate

Article 222

1. The Commission shall be represented in the OCT, or in each regional grouping which expressly so requests, by a Delegate.

2. In the case of a country or territory that is in a region where the Commission has not appointed a Delegate, the authorities of the Member State responsible for the country or territory shall provide liaison between the Commission and the relevant authorities of that country or territory.

3. The Commission Delegate and officials of the delegations, excluding locally hired staff, shall be exempt from all taxes levied in the country or territory where they are posted.

Staff covered by this paragraph shall also be covered by Article 215 (g).

Article 223

The Delegate shall have the necessary instructions and delegated powers to facilitate and expedite the preparation, appraisal and execution of projects and programmes and shall be provided with the necessary back-up support to do so. To this end, and in close cooperation with the Local Authorizing Officer, the Delegate shall:

(a) at the request of the relevant authorities of the country or territory concerned, participate and give assistance in the preparation of projects and programmes and in negotiating technical assistance contracts;

(b) participate in appraising projects and programmes, preparing tender dossiers, and seeking ways to simplify project and programme appraisal and implementation procedures;

(c) prepare financing proposals;

(d) for accelerated procedures, direct agreement contracts, and contracts for emergency assistance, approve, before the Local Authorizing Officer issues them, the invitation to tender dossier within 30 days of its submission to him by the Local Authorizing Officer;

(e) for all cases other than those mentioned in (d), transmit the invitation-to-tender dossier to the Chief Authorizing Officer for approval within 30 days of its submission to the Delegate by the Local Authorizing Officer;

(f) be present at the opening of tenders, and receive copies of them and of the results of their examination;

(g) approve within 30 days the Local Authorizing Officer's proposal for the placing of the contract for all:

(i) direct agreement contracts;

(ii) service contracts;

(iii) contracts relating to emergency assistance; and

(iv) contracts by accelerated procedure, works contracts worth less than ECU 5 million and supply contracts worth less than ECU 1 million;

(h) approve within 30 days the Local Authorizing Officer's proposal for the placing of the contract not covered by paragraph (g) wherever the following conditions are fulfilled: the tender selected is the lowest of those conforming to the requirements of the tender dossier, meets all the selection criteria stated therein and does not exceed the sum earmarked for the contract;

(i) where the conditions set out in paragraph (h) are not fulfilled, forward the proposal for the placing of the

contract to the Chief Authorizing Officer, who shall decide thereon within 60 days of receipt by the Delegate. Where the price of the selected tender exceeds the sum earmarked for the contract, the Chief Authorizing Officer shall, upon giving approval to the award, make the necessary financial commitment;

(j) endorse direct labour contracts and estimates, riders thereto, and payment authorizations issued by the Local Authorizing Officer;

(k) ensure that the projects and programmes financed from the resources of the Fund managed by the Commission are properly executed from the financial and technical viewpoints;

(l) cooperate with the local authorities of the country or territory where he represents the Commission in evaluating operations regularly;

(m) maintain close and continuous contact with the Local Authorizing Officer for the purpose of analysing and remedying specific problems encountered in the implementation of development finance cooperation;

(n) in particular, make regular checks to see that operations are proceeding in accordance with the schedule laid down in the advance timetable in the financing decision;

(o) communicate to the relevant authorities of the country or territory all information and relevant documents on the procedures for implementing development finance cooperation especially as regards appraisal criteria and tender evaluation criteria;

(p) on a regular basis inform the local authorities of Community activities which may directly concern cooperation between the Community and the OCT.

Article 224

At the end of each year, the Delegate shall prepare a report on the implementation of the indicative programme and regional programmes in particular as it relates to operations of the Fund managed by the Commission, and covering, *inter alia:*

(a) the amount of the indicative programme, commitments, disbursements and the timetable for the implementation of the indicative programme and regional programmes;

(b) a progress report on projects and programmes;

(c) an assessment of the operations of the Fund in the country or territory and regional programmes.

A copy of the report shall be submitted simultaneously to the relevant authorities of the country or territory concerned and the Community.

Section 4

Payments and Paying Agents

Article 225

1. For the purpose of effecting payments in the local currencies of the OCT, accounts denominated in the currencies of one of the Member States or in ecus shall be opened in each country or territory in the name of the Commission with a national public or semi-public financial institution, chosen by agreement between the relevant authorities of the country or territory and the Commission. This institution shall exercise the functions of Paying Agent.

2. The accounts referred to in paragraph 1 shall be replenished by the Commission in the currency of one of the Member States or in ecus, based on estimates of future cash requirements, which shall be made sufficiently in advance to avoid need for pre-financing by the OCT and to prevent delayed disbursements.

3. The Paying Agent shall receive no remuneration for its services, and no interest shall be payable by it on deposited funds.

4. For the purpose of effecting payments in ecus, accounts denominated in ecus shall be opened in the name of the Commission with financing institutions in the Member States. These institutions shall exercise the functions of Paying Agents in Europe. Payments from these accounts, which shall be executed on the instruction of the Commission or by the Delegate acting on its behalf, may be made in respect of expenditure authorized by the Local Authorizing Officer or by the Chief Authorizing Officer with the prior authorization of the Local Authorizing Officer.

5. Within the limits of the funds available in the accounts, the Paying Agents shall make disbursements authorized by the Local Authorizing Officer or, as appropriate, the Chief Authorizing Officer, after verifying that the supporting documents provided are substantially correct and in order, and that the discharge given for payment is valid.

6. The procedures for clearance, authorization and payment of expenditure shall be completed within a period of 90 days from the date on which the payment

becomes due. The Local Authorizing Officer shall process and deliver the payment authorization to the Delegate not later than 45 days before the due date.

7. Claims for delayed payments shall be borne by the relevant authorities of the country or territory or countries or territories concerned, and by the Commission from its own resources, for that part of the delay for which each party is responsible, in accordance with paragraph 6.

8. The Paying Agents, the Local Authorizing Officer, the Delegate and the responsible Commission departments shall remain financially liable until the Commission gives final clearance for the operations for the execution of which they are responsible.

Section 5

Monitoring and evaluation

Article 226

The objective of monitoring and evaluation shall consist in the external assessment of development operations (preparation, implementation and subsequent operation) with a view to improving the development effectiveness of ongoing and future operations. This work shall be done jointly by the OCT and the Community.

Article 227

1. More specifically, this work will notably serve the following purposes:

(a) provide regular, joint and independent monitoring and evaluation of the Fund's operations and activities;

(b) organize the joint monitoring and evaluation of ongoing and completed operations, and compare the results of operations with their objectives. Administration, functioning and maintenance of operations should systematically be reviewed;

(c) account to the Council for the outcome of the evaluation work and feed that experience back into the design and execution of future operations;

(d) ensure that the comments of the relevant authorities of the OCT are sought on all monitoring and evaluation reports, and further ensure, in all cases, that the OCT experts participate directly in the monitoring, evaluation and preparation of the reports;

(e) ensure that the OCT and the Community regularly programme evaluation work;

(f) synthesize results of monitoring and evaluation by sector, instrument, theme, country or territory and region. To this end:

(i) reports on the results of monitoring and evaluation shall be drawn up and published at agreed intervals;

(ii) an annual review of operations performance results shall be prepared;

(g) ensure the adequate operational feed-back of monitoring and evaluation results into development policy and practice, by devising effective feed-back mechanisms, organizing seminars and workshops and producing and distributing concise documentation highlighting the most important findings, conclusions and recommendations and, through a process of discussion and follow-up with policy and operating staff, bring that experience to bear on the design and execution of future operations and help to re-orient them;

(h) identify and disseminate lessons that can contribute to improvements in the design and implementation of future operations;

(i) collect and exploit relevant information available with local and international development cooperation organizations.

2. Areas of work to be covered will notably include the following:

(a) development sectors;

(b) development instruments and themes;

(c) local and regional reviews;

(d) individual development operations.

Article 228

In order to ensure its practical relevance to the objectives of the Decision and to improve the exchange of information, the Commission shall:

(a) maintain close contact with evaluation units in the OCT and in the Community, as well as with the Local Authorizing Officers, Commission delegations and other interested services in the OCT local administrations and regional organizations;

(b) assist the OCT in initiating or strengthening monitoring and evaluation capacities, through consultation or through courses on monitoring and evaluation.

TITLE IV

GENERAL PROVISIONS FOR THE LEAST-DEVELOPED OCT

Article 229

Special attention shall be paid to the least-developed OCT and their specific needs and problems in order to enable them to take full advantage of the opportunities offered by the Decision and help them overcome the serious social and economic difficulties which hamper their development.

Independently of the measures provided for in the different chapters of the Decision, special attention shall be paid in respect of the least-developed OCT to:

— the strengthening of regional cooperation;

— transport and communications infrastructure;

— the efficient exploitation of marine resources and the marketing of products so produced;

— the implementation of food strategies and integrated development programmes.

Article 230

1. The following shall be considered least-developed OCT for the purposes of this Decision:

— Anguilla,

— Mayotte,

— Montserrat,

— Saint Helena,

— Turks and Caicos Islands,

— Wallis and Futuna Islands.

2. The list of OCT in paragraph 1 may be amended by decision of the Council, on a proposal from the Commission, where the economic situation of a country or territory undergoes a significant and lasting change, either so as to necessitate its inclusion in the category of least-developed OCT or so that its inclusion in that category is no longer warranted.

Article 231

The provisions laid down pursuant to Article 229 in respect of the least-developed OCT are contained in the following Articles:

1. *Objectives*

   Article 5

2. *Agricultural cooperation, food security and rural development*

   Article 28

3. *Development of fisheries*

   Article 32

4. *Industrial cooperation*

   Article 49

5. *Development of services*

   Article 68

6. *Trade development*

   Article 85 (5)

7. *Safeguard measures — trade cooperation*

   Article 110

8. *Sysmin*

   Article 138 (1)

9. *Recurrent cost financing*

   Article 150 (2)

10. *Allocation of resources*

    Article 160

11. *Microprojects*

    Article 162 (4)

12. *Programming*

    Article 187 (2)

13. *Appraisal of projects*

    Article 193 (3)

14. *Annex on the rules of origin*

    Article 30 (3) and (5)

PART FOUR

PROVISIONS RELATING TO ESTABLISHMENT AND SERVICES

Article 232

As regards the arrangements applicable to establishment and provision of services, the relevant authorities of the OCT shall treat nationals and companies or enterprises of Member States on a non-discriminatory basis.

(a) The relevant authorities of an OCT may, however, adopt regulations to aid the inhabitants and local activities in derogation from the rules normally applicable to nationals, companies or enterprises of all Member States as long as such derogations are confined to sensitive sectors of the OCT's economy and are intended to promote or support local employment.

Such derogations may be granted by the Commission at the request of the relevant authorities of the OCT concerned and after consultation in the framework of the partnership provisions of Articles 235 to 236.

Such a request must be accompanied by reasons indicating in particular the sectors concerned, the duration and other procedures envisaged. It shall be notified to the Commission, which shall inform the Member States and take a decision within three months. If the Commission has not acted within that period, the derogation shall be deemed to have been approved.

(b) However, if a Member State is not bound under Community law, or else national law, to accord non-discriminatory treatment for a given activity to inhabitants of an OCT who are nationals of a Member State or enjoy a legal status specific to an OCT, or for companies or enterprises established in an OCT and covered by the definition in Article 233, the authorities of that OCT shall not be bound to accord such treatment.

Article 233

For the purposes of this Decision 'companies or enterprises' means companies or enterprises constituted under civil or commercial law, including public or other companies, cooperative societies and any other legal person or association governed by public or private law, save for those which are non-profit-making.

'Companies or enterprises of Member States' means companies or enterprises formed in accordance with the laws of a Member State whose registered office, central administration or principal place of business is in a Member State; however, a company or enterprise having only its registered office in a Member State must be engaged in an activity which has an actual and continuous link with the economy of that Member State.

'Companies or enterprises of the Kingdom of Denmark, the French Republic, the Kingdom of the Netherlands or the United Kingdom established in a country or territory' means companies or enterprises formed in accordance with Danish, French, Dutch or United Kingdom law, as the case may be, whose registered office, central administration or principal place of business is in that country or territory; however, a company or enterprise having only its registered office in a country or territory must be engaged in an activity which has an actual and continuous link with the economy of that country or territory.

'Companies or enterprises subject to the laws of the country or territory concerned and established therein' means companies or enterprises formed in accordance with the law applicable in a given country or territory whose registered office, central administration or principal place of business is in that country or territory; however, a company or enterprise having only its registered office in a country or territory must be engaged in an activity which has an actual and continuous link with the economy of that country or territory.

PART FIVE

COMMISSION/MEMBER STATE/OCT PARTNERSHIP

Article 234

Community action shall be based as far as possible on close consultation between the Commission, the Member State responsible for a country or territory and the relevant local authorities of such countries or territories.

This consultation shall hereinafter be referred to as 'partnership'.

Article 235

1. Partnership shall cover the programming, preparation, financing, monitoring and evaluation of operations carried out by the Community under this Decision, and any problem arising in relations between the OCT and the Community.

2. To this end, working parties in association with the OCT, of an advisory nature and made up of the three partners referred to in Article 234, may be set up either on the basis of geographical area or by group of OCT under the responsibility of a single Member State, notably at the request of the OCT concerned. These working parties shall be set up:

— on an *ad hoc* basis to deal with specific problems, or

— on a permanent basis for the period remaining of the life of this Decision; in this case they shall meet at least once a year to examine progress in implementing this Decision or deal with other matters arising under paragraph 1.

3. The Commission shall chair the working parties. A representative of the Bank shall be present at meetings when matters concerning it are on the agenda.

The general expenses of these meetings and the expenses incurred by OCT representatives in attending meetings shall be borne by the relevant authorities of the OCT.

Article 236

1. Other OCT shall be notified by the Commission of recommendations made by a working party.

2. The opinions of working parties shall be duly taken into account by the Commission, notably in its role of administrator of the Fund. Where relevant, they shall form the basis of proposals from the Commission to the Council with a view to bringing into force, under Article 136 of the Treaty, new provisions concerning the application of the association of the OCT with the Community, with particular regard to the effects on the OCT of the completion of the single market.

PART SIX

FINAL PROVISONS

Article 237

Subject to the special provisions regarding relations between the OCT and the French overseas departments provided for herein, this Decision shall apply, on the one hand, to the territories in which the Treaty establishing the European Economic Community is applied and under the conditions laid down in that Treaty and, on the other, to the territories of the OCT.

Article 238

1. The OCT to which this Decision applies are listed in Annex I.

2. The Council, acting unanimously on a proposal from the Commission, may amend or supplement Annex I.

Article 239

If a country or territory becomes independent:

(a) the arrangements provided for in this Decision may continue to apply provisionally to that country or territory under conditions laid down by the Council;

(b) the Council, acting unanimously on a proposal from the Commission, shall decide on any necessary adjustments to this Decision, in particular to the amounts specified in Article 154.

Article 240

1. This Decision shall be applicable for a period of 10 years from 1 March 1990.

2. By 31 December 1993, the Council shall have examined, on the basis of a report from the Commission, the implementation of the trade regime mechanisms, in order to review the said mechanisms should examination show that they have failed to fulfil their objective of economic and social development of the OCT, in particular in the light of investment development, or that they have led to deflection of trade.

3. Before the end of the first five years, the Council, acting unanimously on a proposal from the Commission, shall, in addition to the financial assistance referred to in Article 154 (1), establish:

(a) where necessary, any amendments to provisions following notification to the Commission by the relevant authorities of the OCT not later than 10 months before expiry of this five-year period;

(b) where necessary, any amendments proposed by the Commission in the light of its own experience or as a result of amendments under negotiation between the Community and the ACP States;

(c) any transitional measures necessary as a result of the amendments made under subparagraphs (a) and (b) until their entry into force.

4. Before the date on which this Decision expires, the Council, acting unanimously on a proposal from the Commission, shall establish the provisions to be laid down for the subsequent application of the principles set out in Articles 131 to 135 of the Treaty.

It shall adopt any transitional measures that may be necessary until the entry into force of a new decision.

Article 241

This Decision shall enter into force on the day following that of its publication in the *Official Journal of the European Communities*, with the exception of the financial commitments implementing Part Three, Titles II and III, thereof.

The said commitments shall apply as from the date of the internal ratification of the internal Agreement.

Article 242

This Decision shall be published in the *Official Journal of the European Communities.*

Done at Brussels, 25 July 1991.

For the Council

The President

P. DANKERT

ANNEX I

List of the OCT referred to in Article 1

(This list does not prejudge the status of these countries and territories, or future changes in their status.)

1. Country having special relations with the Kingdom of Denmark: Greenland.

2. Overseas territories of the French Republic:

   — New Caledonia and Dependencies,

   — French Polynesia,

   — French Southern and Antarctic Territories,

   — Wallis and Futuna Islands.

3. Territorial collectivities of the French Republic:

   — Mayotte,

   — Saint Pierre and Miquelon.

4. Non-European countries of the Kingdom of the Netherlands:

   — Aruba,

   — Netherlands Antilles:

      — Bonaire,

      — Curaçao,

      — Saba,

      — Saint Eustatius,

      — Saint Martin.

5. Overseas countries and territories of the United Kingdom of Great Britain and Northern Ireland:

   — Anguilla,

   — Cayman Islands,

   — Falkland Islands,

   — South Georgia and the Sandwich Islands,

   — Montserrat,

   — Pitcairn,

   — Saint Helena and Dependencies,

   — British Antarctic Territory,

   — British Indian Ocean Territory,

   — Turks and Caicos Islands,

   — British Virgin Islands.

ANNEX II

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

TITLE I

DEFINITION OF THE CONCEPT OF 'ORIGINATING PRODUCTS'

Article 1

Origin criteria

For the purpose of implementing the trade cooperation provisions of the Decision, a product shall be considered to be originating in the OCT, the Community or the ACP States if it has been either wholly obtained or sufficiently worked or processed there.

Article 2

Wholly obtained products

1. The following shall be considered as wholly obtained in the OCT, the Community or the ACP States:

(a) mineral products extracted from their soil or from their seabed;

(b) vegetable products harvested therein;

(c) live animals born and raised therein;

(d) products from live animals raised therein;

(e) products obtained by hunting or fishing conducted therein;

(f) products of sea fishing and other products taken from the sea by their vessels;

(g) products made aboard their factory ships exclusively from products referred to in subparagraph (f);

(h) used articles collected there fit only for the recovery of raw materials;

(i) waste and scrap resulting from manufacturing operations conducted therein;

(j) goods produced there exclusively from the products specified in subparagraphs (a) to (i).

2. The term 'their vessels' in paragraph 1 (f) shall apply only to vessels:

— which are registered or recorded in a Member State, in an ACP State, or in a country or territory,

— which sail under the flag of a Member State, of an ACP State, or of a country or territory,

— which are 50 % owned by Member State, ACP or OCT nationals or a company with its head office in one of these States or OCT, of which the manager or managers, chairman of the board of directors or the supervisory board, and the majority of the members of such boards, are Member State, ACP or OCT nationals and of which, in addition in the case of partnerships or limited companies, at least half the capital belongs to Member States or ACP States, or to public bodies or nationals of such States or of a country or territory,

— of which at least 50 % of the crew, master and officers included, are Member State, ACP or OCT nationals.

3. Nothwithstanding the provisions of paragraph 2, where a country or territory offers the Community the opportunity to negotiate a fisheries agreement and the Community does not accept this offer, the country or territory concerned may charter or lease third country vessels to undertake fisheries activities in its exclusive economic zone and request that such vessels be treated as 'its vessels' under the provisions of this Article.

The Community shall recognize vessels chartered or leased by the country or territory as vessels of that country or territory under the following conditions:

— that the Community has not availed itself of the opportunity to negotiate a fisheries agreement with the country or territory concerned,

— that at least 50 % of the crew, master and officers included, are Member State, ACP or OCT nationals,

— that the charter or lease contract has been accepted by the Commission as providing adequate opportunities for developing the capacity of the country or territory to fish on its own account and in particular as conferring on the country or territory the responsibility for the nautical and commercial management of the vessel placed at its disposal for a significant period of time.

4. The terms 'ACP State', 'the Community' and 'OCT' shall also cover their territorial waters.

Sea-going vessels, including factory ships, on which the fish caught is worked or processed shall be considered as part of the territory of the ACP States, the Community or the OCT to which they belong, provided that they satisfy the conditions set out in paragraph 2.

Article 3

Sufficiently processed products

1. For the purposes of Article 1, non-originating materials are considered to be sufficiently worked or processed when the product obtained is classified in a heading which is different from those in which all the non-originating materials used in its manufacture are classified, subject to paragraphs 2 and 3.

The expressions 'chapters' and 'headings' used in this Annex shall mean the chapters and headings (four-digit codes) used in the Nomenclature which makes up the Harmonized Commodity Description and Coding System (hereinafter referred to as the 'Harmonized System').

The expression 'classified' shall refer to the classification of a product or material under a particular heading.

2. For a product mentioned in columns 1 and 2 of the list in Annex 2, the conditions set out in column 3 for the product concerned must be fulfilled instead of the rule in paragraph 1.

(a) Where in the list in Annex 2 a percentage rule is applied in determining the originating status of a product obtained in a country or territory, the value added by the working or processing shall correspond to the ex-works price of the product obtained, less the customs value of third-country materials imported into the Community, the ACP States or the OCT,

(b) the term 'value' in the list in Annex 2 shall mean the customs value at the time of the import of the non-originating materials used or, if this is not known and cannot be ascertained, the first ascertainable price paid for the materials in the territory concerned.

Where the value of the originating materials used needs to be established, the provisions of the preceding subparagraph shall be applied *mutatis mutandis,*

(c) the term 'ex-works price' in the list in Annex 2 shall mean the price paid for the product obtained to the manufacturer in whose undertaking the last working or processing is carried out, provided the price includes the value of all the materials used in manufacture, minus any internal taxes which are, or may be repaid when the product obtained is exported,

(d) 'customs value' shall be understood as meaning the value established in accordance with the Agreement on the implementation of Article VII of the General Agreement on Tariffs and Trade (GATT), concluded in Geneva on 12 April 1979.

3. For the purpose of implementing paragraphs 1 and 2 the following shall be considered as insufficient working or processing to confer the status of originating products, whether or not there is a change of heading:

(a) operations to ensure the preservation of products in good condition during transport and storage (ventilation, spreading out, drying, chilling, placing in salt, sulphur dioxide or other aqueous solutions, removal of damaged parts, and like operations);

(b) simple operations consisting of removal of dust, sifting or screening, sorting, classifying, matching (including the making-up of sets of articles, washing, painting, cutting-up);

(c) (i) changes of packaging and breaking up and assembly of consignments;

(ii) simple placing in bottles, flasks, bags, cases, boxes, fixing on cards or boards etc., and all other simple packaging operations;

(d) affixing marks, labels and other like distinguishing signs on products or their packaging;

(e) (i) simple mixing of products of the same kind where one or more components of the mixture do not meet the conditions laid down in this Annex to enable them to be considered as originating in an ACP State, in the Community or in a country or territory;

(ii) simple mixing of products of different kinds unless one or more components of the mixture meet the conditions laid down in this Annex to enable them to be considered as originating in an ACP State, the Community, or a country or territory and provided that such components contribute to the determination of the essential characteristics of the finished product;

(f) simple assembly of parts of articles to constitute a complete article;

(g) a combination of two or more operations specified in subparagraphs (a) to (f);

(h) slaughter of animals.

Article 4

Neutral elements

In order to determine whether goods originate in an ACP State, the Community or one of the OCT, it shall not be necessary to establish whether the electrical power, fuel, plant and equipment and machines and tools used to obtain such goods or whether any materials or products used in the course of production which do not enter and which were not intended to enter into the final composition of the goods originate in third countries or not.

Article 5

Value tolerance

Notwithstanding the provisions of Article 3 (1) and (2), non-originating materials may be used in the manufacture of a given product, provided their total value does not exceed 10 % of the ex-works price of the final product and subject to the conditions laid down in Note 4.4 in Annex 1.

Article 6

Cumulation

1. For the purpose of implementing this Title, the OCT shall be considered as being one territory.

2. When products wholly obtained in the Community or in the ACP States undergo working or processing in the OCT, they shall be considered as having been wholly obtained in the OCT.

3. Working and processing carried out in the Community or in the ACP States shall be considered as having been carried out in the OCT when the materials undergo working or processing in the OCT.

4. Paragraphs 2 and 3 apply to any working or processing carried out in the OCT, including the operations listed in Article 3 (3).

Article 7

Allocation of origin

Originating products made up of materials wholly obtained or sufficiently processed in two or more OCT or in one or more ACP States and in one or more OCT shall be considered as products originating in the OCT or ACP States where the last working or processing took place, provided this working or processing exceeded the insufficient operations listed in Article 3 (3) or a combination thereof.

Article 8

Accessories, spare parts and tools

Accessories, spare parts and tools dispatched with a piece of equipment, machine, apparatus or vehicle which are part of the normal equipment and included in the price thereof or are not separately invoiced are regarded as one with the piece of equipment, machine, apparatus or vehicle in question.

Article 9

Sets

Sets, as defined in General Rule 3 of the harmonized system, shall be regarded as originating when all component articles are originating products. Nevertheless, when a set is composed of originating and non-originating articles, the set as a whole shall be regarded as originating provided that the value of the non-originating articles does not exceed 15 % of the ex-works price of the set.

Article 10

Direct transport

1. The preferential treatment provided for under the trade cooperation provisions of the Decision applies only to products or materials which are transported between the territory of the ACP States, of the Community or of the OCT without entering any other territory. However, goods constituting one single consignment may be transported through territory other than that of the ACP States, the Community or the OCT, with, should the occasion arise, transhipment or temporary warehousing in such territory, provided that the goods have remained under the surveillance of the customs authorities in the country of transit or of warehousing and that they have not undergone operations other than unloading, reloading or any operation designed to preserve them in good condition.

2. Evidence that the conditions referred to in paragraph 1 have been fulfilled shall be supplied to the responsible customs authorities by the production of:

(a) a through bill of lading issued in the exporting beneficiary country covering the passage through the country of transit;

(b) or a certificate issued by the customs authorities of the country of transit:

— giving an exact description of the goods,

— stating the dates of unloading and reloading of the goods or of their embarkation or disembarkation, identifying the ships used,

— certifying the conditions under which the goods remained in the transit country; or

(c) failing these, any substantiating documents.

Article 11

Territorial requirement

The conditions set out in this Title relative to the acquisition of originating status must be fulfilled without interruption in the Community, the ACP States or the OCT.

If originating goods exported from the Community, the ACP States or the OCT to another country are returned, they must be considered as non-originating unless it can be demonstrated to the satisfaction of the customs authorities that:

— the goods returned are the same goods as those exported, and

— they have not undergone any operation beyond that necessary to preserve them in good condition while in that country or while being exported.

TITLE II

PROOF OF ORIGIN

Article 12

Movement certificate EUR. 1

1. Evidence of originating status of products, within the meaning of this Annex, shall be given by a movement certificate EUR. 1, a specimen of which appears in Annex 4 to this Annex.

2. A movement certificate EUR. 1 may be issued only where it can serve as the documentary evidence required for the purpose of implementing the Decision.

3. A movement certificate EUR. 1 shall be issued only on application having been made in writing by the exporter or, on his responsibility, by his authorized representative. Such application shall be made on a form, a specimen of which appears in Annex 4 to this Annex, which shall be completed in accordance with this Annex.

4. Applications for movement certificates EUR. 1 must be preserved for at least three years by customs authorities of the exporting country.

5. The exporter or his representative shall submit with his request any appropriate supporting document proving that the products to be exported are such as to qualify for the issue of a movement certificate EUR. 1.

He shall undertake to submit at the request of the relevant authorities, any supplementary evidence they may require for the purpose of establishing the correctness of the originating status of the goods eligible for preferential treatment and shall undertake to agree to any inspection of his accounts and to any check on the processes of the obtaining of the above goods.

Exporters are required to keep the supporting documents referred to in this paragraph for at least two years.

6. The movement certificate EUR. 1 shall be issued by the customs authorities of the exporting country or territory, if the goods can be considered 'originating products' within the meaning of this Annex.

7. For the purpose of verifying whether the conditions stated in paragraph 6 have been met, the customs authorities shall have the right to call for any documentary evidence or to carry out any check which they consider appropriate.

8. It shall be the responsibility of the customs authorities of the exporting State to ensure that the forms referred to in paragraph 1 are duly completed. In particular, they shall check whether the space reserved for the description of the products has been completed in such a manner as to exclude all possibility of fraudulent additions. To this end, the description of the products must be indicated without leaving any blank lines. Where the space is not completely filled a horizontal line must be drawn below the last line of the description, the empty space being crossed through.

9. The date of issue of the movement certificate must be indicated in the part of the certificate reserved for the customs authorities.

10. A movement certificate EUR. 1 shall be issued by the customs authorities of the exporting country or territory when the products to which it relates are exported. It shall be made available to the exporter as soon as actual export has been effected or ensured.

Article 13

Issue of certificate EUR. 1 retrospectively

1. In exceptional circumstances a movement certificate EUR. 1 may also be issued after export of the products to which it relates if it was not issued at the time of export because of errors or involuntary omissions or special circumstances.

2. For the implementation of paragraph 1, the exporter must in the application:

— indicate the place and date of export of the products to which the certificate relates,

— certify that no movement certificate EUR. 1 was issued at the time of export of the products in question, and state the reasons.

3. The customs authorities may issue a movement certificate EUR. 1 retrospectively only after verifying that the information supplied in the exporter's application agrees with that in the corresponding file.

Certificates issued retrospectively must be endorsed with one of the following phrases: 'EXPEDIDO A POSTERIORI', 'UDSTED EFTERFØLGENDE', 'NACHTRÄGLICH AUSGESTELLT', 'ΕΚΔΟΘΕΝ ΕΚ ΤΩΝ ΥΣΤΕΡΩΝ', 'ISSUED RETROSPECTIVELY', 'DELIVRE A POSTERIORI', 'RILASCIATO A POSTERIORI', 'AFGEGEVEN A POSTERIORI', 'EMITIDO A POSTERIORI'.

Article 14

Issue of a duplicate certificate EUR. 1

In the event of the theft, loss or destruction of a movement certificate EUR. 1, the exporter may apply to the customs authorities which issued it for a duplicate made out on the basis of the export documents in their possession.

The duplicate issued in this way must be endorsed with one of the following words: 'DUPLICADO', 'DUPLIKAT', 'DUPLIKAT', 'ΑΝΤΙΓΡΑΦΟ', 'DUPLICATE', 'DUPLICATA', 'DUPLICATO', 'DUPLICAAT', 'SEGUNDA VIA'.

Article 15

Replacement of certificates

It shall at any time be possible to replace one or more movement certificates EUR. 1 by one or more other movement certificates EUR. 1 provided that this is done at the customs office where the goods are located.

Article 16

Validity of movement certificates EUR. 1

1. A movement certificate EUR. 1 must be submitted, within 10 months of the date of issue by the customs authorities of the exporting country or territory, to the customs authorities of the importing State where the products are entered.

2. A movement certificate EUR. 1 which is submitted to the customs authorities of the importing State after the final date of presentation specified in paragraph 1 may be accepted for the purpose of applying preferential treatment, where the failure to submit the certificate by the final date set is due to reasons of *force majeure* or exceptional circumstances.

3. In other cases of belated presentation, the customs authorities of the importing State may accept the certificates where the products have been submitted to them before the said final date.

Article 17

Transit procedure

When the products enter an ACP State or OCT other than the country of origin, a further period of validity of 10 months shall commence on the date on which the customs authorities in the country of transit enter the following in box 7 of the certificate EUR. 1:

— the word 'transit',

— the name of the country of transit,

— the official stamp, a specimen of which has been made available to the Commission, in conformity with Article 25,

— the date of the endorsements.

Article 18

Exhibitions

1. Products sent from a country or territory for exhibition in a country other than an ACP State, a Member State or a country or territory and sold after the exhibition for importation into the Community shall benefit on importation from the provisions of the Decision on condition that the products meet the requirements of this Annex entitling them to be recognized as originating in a country or territory and provided that it is shown to the satisfaction of the customs authorities of the importing State that:

(a) an exporter has consigned these products from a country or territory to the country in which the exhibition is held and has exhibited them there;

(b) the products have been sold or otherwise disposed of by that exporter to someone in the Community;

(c) the products have been consigned during the exhibition or immediately thereafter to the Community in the state in which they were sent for exhibition;

(d) the products have not, since they were consigned for exhibition, been used for any purpose other than demonstration at the exhibiton.

2. A movement certificate EUR. 1 must be produced to the customs authorities in the normal manner. The name and address of the exhibition must be indicated thereon. Where necessary, additional documentary evidence of the nature of the products and the conditions under which they have been exhibited may be required.

3. Paragraph 1 shall apply to any trade, industrial, agricultural or crafts exhibition, fair or similar public show or display which is not organized for private purposes in shops or business premises with a view to the sale of foreign products, and during which the products remain under customs control.

Article 19

Submission of certificates

Movement certificates EUR. 1 shall be submitted to customs authorities in the importing State, in accordance with the procedure laid down by that State. The said authorities may require a translation of a certificate. They may also require the import declaration to be accompanied by a statement from the importer to the effect that the products meet the conditions required for the implementation of the Decision.

Article 20

Importation by instalments

Where, at the request of the person declaring the goods at the customs, a dismantled or non-assembled article falling within Chapter 84 or 85 of the harmonized system is imported by instalments on the conditions laid down by the competent authorities, it shall be considered to be a single article and a movement certificate may be submitted for the whole article upon import of the first instalment.

Article 21

Form EUR. 2

1. Notwithstanding Article 12 the evidence of originating status, within the meaning of this Annex, of products which form the subject of postal consignments (including parcels), provided that they consist only of originating products and that the value does not exceed ECU 2 820 per consignment, is given by a form EUR. 2, of which a specimen appears in Annex 5 to this Annex, which shall be completed by the exporter.

2. Up to and including 30 April 1991 the ecu to be used in any given national currency of a Member State of the Community shall be the equivalent in that national currency of the ecu as at 1 October 1988. For each successive period of two years it shall be the equivalent in that national currency of the ecu as at the first working day in October in the year immediately preceding that two-year period.

3. Revised amounts replacing the amounts expressed in ecus above and in Article 22 (2) may be introduced by the Community at the beginning of any successive two-year period if necessary. These amounts shall be, in any event, such as to ensure that the value of the limits as expressed in the currency of any Member State shall not decline.

4. If the products are invoiced in the currency of another Member State of the Community, the importing State shall recognize the amount notified by the State concerned.

5. A form EUR. 2 shall be completed for each postal consignment. After completing and signing the form, the exporter shall, in the case of consignments by parcel post, attach the form to the dispatch note. In the case of consignment by letter post, the exporter shall insert the form inside the package.

6. These provisions do not exempt exporters from complying with any other formalities required by customs or postal regulations.

Article 22

Exemptions from proof of origin

1. Products sent as small packages to private persons or forming part of travellers' personal luggage shall be admitted as originating products without requiring the production of a movement certificate EUR. 1 or the completion of form EUR. 2, provided that such products are not imported by way of trade and have been declared as meeting the conditions required for the application of these provisions, and where there is no doubt as to the veracity of such declaration.

2. Imports which are occasional and consist solely of products for the personal use of the recipients or travellers or their families shall not be considered as imports by way of trade if it is evident from the nature and quantity of the products that no commercial purpose is in view.

Furthermore, the total value of these products must not exceed ECU 200 in the case of small packages or ECU 565 in the case of the contents of travellers' personal luggage.

Article 23

Information procedure for cumulation purposes

1. When Article 6 is applied, for the issue of a movement certificate EUR. 1, the competent customs

office in the country or territory requested to issue the certificate for products in the manufacture of which materials coming from other OCT, the Community or the ACP States are used, shall take into consideration the declaration, a specimen of which appears in Annex 6 A or B, given by the exporter in the State or country or territory from which it came, either on the commercial invoice applicable to these materials, or on a supporting document to that invoice.

2. A separate supplier's declaration shall be given by the supplier for each consignment of materials on the commercial invoice related to that shipment or in an annex to that invoice, or on a delivery note or other commercial document related to that shipment which describes the materials concerned in sufficient detail to enable them to be identified.

3. For materials having obtained preferential originating status, the suppliers' declarations shall be given in the form prescribed in Annex 6 A.

4. For materials which have undergone working or processing in the ACP States, the OCT or the Community without having obtained preferential originating status, the suppliers' declarations shall be given in the form prescribed in Annex 6 B.

5. The supplier's declaration may be made out on a pre-printed form.

6. The suppliers' declarations shall be signed in manuscript. However, where the invoice and the supplier's declaration are established using electronic data-processing methods, the supplier's declaration need not be signed in manuscript provided the responsible official in the supplying company is identified to the satisfaction of the customs authorities in the State where the suppliers' declarations are established. The said customs authorities may lay down conditions for the implementation of this paragraph.

7. Suppliers' declarations made and information certificates issued in accordance with Articles 20 and 21 of Annex II to Decision 86/283/EEC before the date of entry into force of this Decision remain valid (1).

Article 24

Discrepancies

The discovery of slight discrepancies between the statements made in the movement certificate EUR. 1, in the form EUR. 2 or in the layout of the supplier's declaration referred to in Article 23 and those made in the documents submitted to the customs office for the purpose of carrying out the formalities for importing the materials shall not *ipso facto* render the document null and void if it is duly established that the movement certificate EUR. 1, the form EUR. 2 or the suppliers' declaration does correspond to the goods submitted.

(1) OJ No L 175, 1. 7. 1986, p. 1.

TITLE III

METHODS OF ADMINISTRATIVE COOPERATION

Article 25

Communication of stamps

Specimens of the stamps used together with the addresses of the customs authorities competent to issue movement certificates EUR. 1 and carry out the subsequent verification of movement certificates EUR. 1 and forms EUR. 2 must be sent to the Commission.

Movement certificates EUR. 1 and forms EUR. 2 shall be accepted for the purpose of applying preferential treatment from the date the information is received by the Commission.

The Commission shall send this information to the customs authorities of the Member States.

Movement certificates EUR. 1 and forms EUR. 2 presented to the customs authorities of the importing State before this date shall be accepted in conformity with the Community legislation.

Article 26

Verification of movement certificates EUR. 1 and of forms EUR. 2

1. Subsequent verification of movement certificates EUR. 1 and of forms EUR. 2 shall be carried out at random or whenever the customs authorities of the importing State have reasonable doubts as to the authenticity of the document or the accuracy of the information regarding the true origin of the products in question.

2. In order to ensure the proper application of this Annex, the Member States, the OCT and the ACP States shall assist each other, through their respective customs administrations, in checking the authenticity of movement certificates EUR. 1 and the accuracy of the information concerning the actual origin of the products concerned and the declarations by exporters on forms EUR. 2 and the authenticity and accuracy of the information certificates referred to in Article 27 (2).

The authorities consulted shall furnish the relevant information concerning the conditions under which the product has been made, indicating especially the conditions in which the rules of origin have been respected in the various ACP States, Member States or OCT concerned.

3. If the customs authorities of the importing State decide to suspend execution of the provisions of the Decision while awaiting the results of the verification, they shall offer to release the products to the importer subject to any precautionary measures judged necessary.

4. For the purpose of implementing paragraph 1, the customs authorities of the importing country or territory shall return the movement certificate EUR. 1 or form EUR. 2, or a photocopy thereof, to the customs authorities of the exporting country or territory, giving, where appropriate, the reasons of form or substance for an inquiry. The relevant commercial documents, or a copy thereof, shall be attached to the certificate EUR. 1 or form EUR. 2 and the customs authorities shall forward any information that has been obtained suggesting that the particulars given on the said certificate or the said form are inaccurate.

5. The customs authorities of the importing State shall be informed of the results of the verification within six months. These results must be such as to make it possible to determine whether the disputed movement certificate EUR. 1 or form EUR. 2 applied to the products actually exported, and whether these products can, in fact, qualify for the application of the preferential arrangements.

6. Where the verification procedure or any other available information appears to indicate that the provisions of this Annex are being contravened, the country or territory on its own initiative or at the request of the Community shall carry out appropriate enquiries or arrange for such enquiries to be carried out with due urgency to identify and prevent such contraventions. The Commission may participate in the enquiries.

Where the verification procedure or any other available information appears to indicate that the provisions of this Annex are being contravened, the products would be accepted as originating products under this Annex only after the completion of such aspects of administrative cooperation set down in the Annex which may have been activated.

7. Disputes which cannot be settled between the customs authorities of the importing State and those of the exporting country or territory, or those which raise a question as to the interpretation of this Annex, shall be submitted to the Committee on Origin set up by Council Regulation (EEC) No 802/68 (1).

8. In all cases, the settlement of disputes between the importer and the customs authorities of the importing State shall be under the legislation of the said State.

Article 27

Verification of suppliers' declarations

1. Verification of suppliers' declarations may be carried out at random or whenever the customs authorities of the importing State have reasonable doubts as to the authenticity of the document or the accuracy or completeness of the information concerning the true origin of the materials in question.

2. The customs authorities to which a supplier's declaration is submitted may request the customs authorities of the State where the declaration was made to issue an information certificate, a specimen of which appears in Annex 7 to this Annex. Alternatively, the customs authorities to which a supplier's declaration is submitted may request the exporter to produce an information certificate issued by the customs authorities of the State where the declaration was made.

A copy of the information certificate shall be preserved by the office which has issued it for at least two years.

3. The requesting customs authorities shall be informed of the results of the verification as soon as possible. The results must be such as to indicate positively whether the declaration concerning the status of the materials is correct.

4. For the purpose of verification, suppliers shall keep for not less than two years a copy of the document containing the declaration together with all necessary evidence showing the true status of the materials.

5. The customs authorities in the State where the supplier's declaration is established shall have the right to call for any evidence or to carry out any check which they consider appropriate in order to verify the correctness of any supplier's declaration.

6. Any movement certificate EUR. 1 or form EUR. 2 issued or made out on the basis of an incorrect supplier's declaration shall be considered null and void.

7. The procedure laid down in Article 26 (7) shall apply in case of any disputes concerning suppliers' declarations or information certificates.

(1) OJ No L 148, 28. 6. 1968, p. 1.

Article 28

Penalties

Penalties shall be imposed on any person who, in order to enable products to be accepted as eligible for preferential treatment, draws up, or causes to be drawn up, either a document which contains incorrect particulars for the purpose of obtaining a movement certificate EUR. 1 or a form EUR. 2 containing incorrect particulars.

Article 29

Free zones

The Member States and the responsible authorities of the OCT shall take all necessary steps to ensure that goods traded under cover of a movement certificate EUR. 1 or of a supplier's declaration and which in the course of transport use a free zone situated in their territory are not replaced by other goods and that they do not undergo handling other than operations designed to preserve them in good condition.

Article 30

Derogations

1. Derogations from this Annex may be adopted where the development of existing industries or the creation of new industries justifies them.

The Member State or, where appropriate, the relevant authorities of the country or territory concerned shall notify the Community of its request and shall give the reasons for the request in accordance with paragraph 2.

The Community shall respond positively to all requests which are duly justified in conformity with this Article, in particular when substantial processing or working is carried out in the requesting OCTs, and which cannot cause serious injury to an established Community industry.

2. In order to facilitate the examination of requests for derogations, the Member State or country or territory making the request shall, by means of the form given in Annex 9 to this Annex, furnish in support of its request the fullest possible information covering in particular the points listed below:

— description of the finished product,

— nature and quantity of materials originating in a third country,

— nature and quantity of materials originating in ACP States, the Community or the OCT, or which have been processed there,

— manufacturing processes,

— value added,

— number of employees in the enterprise concerned,

— anticipated volume of exports to the Community,

— other possible sources of supply for raw materials,

— reasons for the duration requested in the light of efforts made to find new sources of supply,

— other observations.

The same rules shall apply to any requests for extension.

The form may be amended in accordance with the procedure set out in Article 14 (2) and (3) of Regulation (EEC) No 802/68.

3. The examination of requests shall in particular take into account:

(a) the level of development or the geographical situation of the country or territory concerned;

(b) cases where the application of the existing rules of origin would significantly affect the ability of an existing industry in a country or territory to continue its exports to the Community, with particular reference to cases where this could lead to cessation of its activities;

(c) specific cases where it can be clearly demonstrated that significant investment in an industry could be deterred by the rules of origin and where a derogation favouring the realization of the investment programme would enable these rules to be satisfied by stages.

4. In every case an examination shall be made to ascertain whether the rules relating to cumulation of origin do not provide a solution to the problem.

5. In addition when a request for derogation concerns a least-developed country or territory, its examination shall be carried out with a favourable bias having particular regard to:

(a) the economic and social impact of the decision to be taken especially in respect of employment;

(b) the need to apply the derogation for a period taking into account the particular situation of the country or territory concerned and its difficulties.

6. In the examination of requests, special account shall be taken, case by case, of the possibility of conferring originating status on products which include in their composition materials originating in neighbouring developing countries or least-developed countries, provided that satisfactory administrative cooperation can be established.

7. (a) Without prejudice to paragraphs 1 to 6, the derogation shall be granted where the value added to the non-originating products used in the country or territory concerned is at least 45 % of the value of the finished product, provided that the derogation is not such as to cause serious injury to an economic sector of the Community or of one or more Member States;

(b) notwithstanding the provisions of subparagraph (a), the derogation shall be granted automatically:

— when it concerns non-sensitive materials or products covered by the generalized system of preferences (GSP) applied by the Community at the time of the request,

— for any other product the decision on whether to grant a derogation will be taken with due regard for the degree of sensitivity for the Community of the materials or products in question, requests for derogations being given sympathetic consideration when they concern a total annual quantity not exceeding 1 % in value of average Community imports of the materials or products in question over the last three years for which statistics are available at the time of the request. Any request for a derogation must also propose solutions that will avoid the need for such a derogation in future;

(c) the provisions of subparagraph (b) shall not apply in cases where the operations carried out in the country or territory concern only the working or processing referred to in Article 3 (3).

8. (a) The Council and the Commission shall take all the necessary measures to ensure that a decision is taken promptly and in any case not later than 60 working days after receipt of the request by the chairman of the Committee on Origin. In this context, Decision 90/523/EEC [1] shall apply *mutatis mutandis* to the OCT;

(b) if a decision is not taken within the time limit referred to in subparagraph (a), the request shall be considered as accepted.

9. (a) The derogation shall usually be valid for a period of five years;

(b) the derogation decision may provide for renewals without a new decision being necessary, provided that the Member State or country or territory concerned submits, three months before the end of each period, proof that it is still unable to meet the conditions of this Annex which have been derogated from.

If any objection is made to the extension, the Committee shall examine it as soon as possible and decide whether to prolong the derogation. The Committee shall proceed as provided for in paragraph 8. All necessary measures shall be taken to avoid interruptions in the application of the derogation.

10. Should a derogation granted in accordance with paragraph 7 (b) cause serious disturbance in sectors of activity in some regions of the Community, it shall be re-examined in accordance with the procedure set out in Article 14 (2) and (3) of Regulation (EEC) No 802/68, without prejudice to the emergency measures that the Commission is authorized to take.

Following this examination, the decision may be amended or revoked.

TITLE IV

CANARY ISLANDS, CEUTA AND MELILLA

Article 31

Special conditions

1. For the application of the provisions of Decision 86/47/EEC, as last extended by Decision 90/699/EEC, this Annex shall apply *mutatis mutandis* subject to the particular conditions set out in paragraphs 2 to 8 of this Article.

2. The term 'Community' used in this Annex shall not cover the Canary Islands, Ceuta or Melilla. The term 'products originating in the Community' shall not cover products originating in the Canary Islands, Ceuta and Melilla.

[1] OJ No L 290, 23. 10. 1990, p. 33.

3. The following provisions shall apply instead of Article 6 (2) and (3) and references to those Articles shall apply *mutatis mutandis* to this Article.

4. Where products wholly obtained in the Canary Islands, Ceuta, Melilla, the ACP States or the Community undergo working and processing in the OCT, they shall be considered as having been wholly obtained in the OCT.

5. Working or processing carried out in the Canary Islands, Ceuta, Melilla, the ACP States or the Community shall be considered as having been carried out in the OCT, when materials undergo further working or processing in the OCT.

6. Where products wholly obtained in the ACP States, the OCT or the Community undergo working or processing in the Canary Islands, Ceuta or Melilla, they shall be considered as having been wholly obtained in the Canary Islands, Ceuta or Melilla.

7. Working or processing carried out in the ACP States, the OCT or the Community shall be considered as having been carried out in the Canary Islands, Ceuta or Melilla when materials undergo further working or processing in the Canary Islands, Ceuta or Melilla.

8. The Canary Islands, Ceuta and Melilla shall be considered as a single territory.

TITLE V

FINAL PROVISIONS

Article 32

Petroleum products

The products set out in Annex 8 shall be temporarily excluded from the scope of this Annex. Nevertheless, the arrangements regarding administrative cooperation shall apply, *mutatis mutandis*, to these products.

Article 33

Revision of rules of origin

The Council shall examine whenever necessary or whenever the relevant authorities of the Community or a country or territory so request, the application of the provisions of this Annex and their economic effects with a view to making any necessary amendments or adaptations.

The Council shall take into account among other elements the effects on the rules of origin of technological developments.

The decisions taken shall be implemented as soon as possible.

Article 34

Annexes

The Annexes to this Annex shall form an integral part thereof.

Annex 1 to Annex II

NOTES

Foreword

These notes shall apply where appropriate to all products manufactured using non-originating materials even if they are not subject to specific conditions contained in the list in Annex 2 but are subject instead to the change of heading rule set out in Article 3 (1).

Note 1:

1.1. The first two columns in the list describe the product obtained. The first column gives the heading number or chapter number used in the harmonized system and the second column gives the description of goods used in that system for that heading or chapter. For each entry in the first two columns a rule is specified in column 3. Where, in some cases, the entry in the first column is preceded by an 'ex', this signifies that the rule in column 3 applies only to the part of that heading or chapter as described in column 2.

1.2. Where several heading numbers are grouped together in column 1 or a chapter number is given and the description of products in column 2 is therefore given in general terms, the adjacent rule in column 3 applies to all products which, under the harmonized system, are classified in headings of the chapter or in any of the headings grouped together in column 1.

1.3. Where there are different rules in the list applying to different products within a heading, each indent contains the description of that part of the heading covered by the adjacent rule in column 3.

Note 2:

2.1. The term 'manufacture' covers any kind of working or processing including 'assembly' or specific operations. However, see Note 3.5 hereafter.

2.2. The term 'material' covers any 'ingredient', 'raw material', 'component' or 'part', etc., used in the manufacture of the product.

2.3. The term 'product' refers to the product being manufactured, even if it is intended for later use in another manufacturing operation.

2.4. The term 'goods' covers both 'materials' and 'products'.

Note 3:

3.1. In the case of any heading not in the list or any part of a heading that is not in the list, the 'change of heading' rule set out in Article 3 (1) applies. If a 'change of heading' condition applies to any entry in the list, then it is contained in the rule in column 3.

3.2. The working or processing required by a rule in column 3 has to be carried out only in relation to the non-originating materials used. The restrictions contained in a rule in column 3 likewise apply only to the non-originating materials used.

3.3. Where a rule states that 'materials of any heading' may be used, materials of the same heading as the product may also be used, subject, however, to any specific limitations which may also be contained in the rule. However, the expression 'manufacture from materials of any heading, including other materials of heading No . . .' means that only materials classified in the same heading as the product of a different description than that of the product as given in column 2 of the list may be used.

3.4. If a product made from non-originating materials which has acquired originating status during manufacture by virtue of the change of heading rule or its own list rule is used as a material in the process of manufacture of another product, then the rule applicable to the product in which it is incorporated does not apply to it.

For example, an engine of heading No 8407, for which the rule states that the value of the non-originating materials which may be incorporated may not exceed 40 % of the ex-works price, is made from 'other alloy steel roughly shaped by forging' of heading No 7224.

If this forging has been forged in the country concerned from a non-originating ingot then the forging has already acquired origin by virtue of the rule for heading No ex 7224 in the list. It can then count as originating in the value calculation for the engine regardless of whether it was produced in the same factory or another. The value of the non-originating ingot is thus not taken into account when adding up the value of the non-originating materials used.

3.5. Even if the change of heading rule or the other rules contained in the list are satisfied, a product shall not acquire originating status if the processing carried out, taken as a whole, is insufficient within the meaning of Article 3 (3).

3.6. The unit of qualification for the application of the origin rules shall be the particular product which is considered as the basic unit when determining classification using the nomenclature of the harmonized system. In the case of sets of products which are classified by virtue of rule 3 of the general rules for the interpretation of the harmonized system, the unit of qualification shall be determined in respect of each item in the set in the case of headings Nos 6308, 8206 and 9605.

Accordingly, it follows that:

— when a product composed of a group or assembly of articles is classified under the terms of the harmonized system in a single heading, the whole constitutes the unit of qualification,

— when a consignment consists of a number of identical products classified under the same heading of the harmonized system, each product must be taken individually when applying the origin rules,

— where, under general rule 5 of the harmonized system, packing is included with the product for classification purposes, it shall be included for the purposes of determining origin.

Note 4:

4.1. The rule in the list represents the minimum amount of working or processing required and the carrying out of more working or processing also confers originating status; conversely, the carrying out of less working or processing cannot confer origin. Thus if a rule says that non-originating material at a certain level of manufacture may be used, the use of such material at an earlier stage of manufacture is allowed and the use of such material at a later stage is not.

4.2. When a rule in the list specifies that a product may be manufactured from more than one material, this means that any one or more materials may be used. It does not require that all be used.

For example, the rule for fabrics says that natural fibres may be used and that chemical materials, among other materials, may also be used. This does not mean that both have to be used; one can use one or the other or both.

If, however, a restriction applies to one material and other restrictions apply to other materials in the same rule, then the restrictions only apply to the materials actually used.

For example, the rule for sewing machines specifies that both the thread tension mechanism used and the zigzag mechanism used must originate; these two restrictions only apply if the mechanisms concerned are actually incorporated into the sewing machine.

4.3. When a rule in the list specifies that a product must be manufactured from a particular material, the condition obviously does not prevent the use of other materials which, because of their inherent nature, cannot satisfy the rule.

For example, the rule for heading No 1904 which specifically excludes the use of cereals or their derivatives does not prevent the use of mineral salts, chemicals and other additives which are not produced from cereals.

For example, in the case of an article made from non-woven materials, if the use of only non-originating yarn is allowed for this class of article, it is not possible to start from non-woven cloth — even if non-woven cloths cannot normally be made from yarn. In such cases, the starting material would normally be at the stage before yarn — that is the fibre stage.

See also Note 7.3 in relation to textiles.

4.4. If in a rule in the list two or more percentages are given for the maximum value of non-originating materials that can be used, then these percentages may not be added together. The maximum value of all the non-originating materials used may never exceed the highest of the percentages given. Furthermore, the individual percentages must not be exceeded in relation to the particular materials they apply to.

This note also applies to the value tolerance provided for in Article 5.

Note 5:

5.1. The term 'natural fibres' is used in the list to refer to fibres other than artificial or synthetic fibres and is restricted to the stages before spinning takes place, including waste, and, unless otherwise specified, the term 'natural fibres' includes fibres that have been carded, combed or otherwise processed but not spun.

5.2. The term 'natural fibres' includes horsehair of heading No 0503, silk of heading Nos 5002 and 5003 as well as the wool fibres, fine or coarse animal hair of heading Nos 5101 to 5105, the cotton fibres of heading Nos 5201 to 5203 and the other vegetable fibres of heading Nos 5301 to 5305.

5.3. The terms 'textile pulp', 'chemical materials' and 'paper-making materials' are used in the list to describe the materials not classified in chapters 50 to 63, which can be used to manufacture artificial, synthetic or paper fibres or yarns.

5.4. The term 'man-made staple fibres' is used in the list to refer to synthetic or artificial filament tow, staple fibres or waste, of heading Nos 5501 to 5507.

Note 6:

6.1. In the case of the products classified in those headings in the list to which a reference is made to this Note, the conditions set out in column 3 of the list shall not be applied to any basic textile materials used in their manufacture which, taken together, represent 10 % or less of the total weight of all the basic textile materials used (but see also Notes 6.3 and 6.4 hereafter).

6.2. However, this tolerance may only be applied to mixed products which have been made from two or more basic textile materials.

The following are the basic textile materials:

— silk,
— wool,
— coarse animal hair,
— fine animal hair,
— horsehair,
— cotton,
— paper-making materials and paper,
— flax,
— true hemp,
— jute and other textile bast fibres,
— sisal and other textile fibres of the genus Agave,
— coconut, abaca, ramie and other vegetable textile fibres,
— synthetic man-made filaments,
— artificial man-made filaments,
— synthetic man-made staple fibres,
— artificial man-made staple fibres.

For example, a yarn of heading No 5205 made from cotton fibres of heading No 5203 and synthetic staple fibres of heading No 5506 is a mixed yarn. Therefore, synthetic staple fibres that do not satisfy the origin rules (which require manufacture from chemical materials or textile pulp) may be used up to a weight of 10 % of the yarn.

For example, a woollen fabric of heading No 5112 made from woollen yarn of heading No 5107 and yarn of synthetic staple fibres of heading No 5509 is a mixed fabric. Therefore, synthetic yarn that does not satisfy the origin rules (which require manufacture from chemical materials or textile pulp), or woollen yarn that does not satisfy the origin rules (which require manufacture from natural fibres not carded or combed or otherwise prepared for spinning), or a combination of the two may be used up to a weight of 10 % of the fabric.

For example, tufted textile fabric of heading No 5802 made from cotton yarn of heading No 5205 and cotton fabric of heading No 5210 is only a mixed product if the cotton fabric is itself a mixed fabric being made from yarns classified in two separate headings or if the cotton yarns used are themselves mixtures.

For example, if the tufted textile fabric concerned had been made from cotton yarn of heading No 5205 and synthetic fabric of heading No 5407, then, obviously, the yarns used are two separate basic textile materials and the tufted textile fabric is accordingly a mixed product.

For example, a carpet with tufts made both from artificial yarns and tufts made from cotton yarns and with a jute backing is a mixed product because three textile materials are used. Any non-originating materials that are at a later stage of manufacture than the rule allows may be used, provided their total weight taken together does not exceed 10 % of the weight of the carpet. Thus, both the jute backing, the artificial yarns and/or the cotton yarns could be imported at that stage of manufacture, provided the weight conditions are met.

6.3. In the case of fabrics incorporating 'yarn made of polyurethane segmented with flexible segments of polyether whether or not gimped' this tolerance is 20 % in respect of this yarn.

6.4. In the case of fabrics incorporating strip consisting of a core of aluminium foil or of a core of plastic film whether or not coated with aluminium powder, of a width not exceeding 5 mm, sandwiched by means of an adhesive between two films of plastic film, this tolerance is 30 % in respect of this strip.

Note 7:

7.1. In the case of those textile products which are marked in the list by a footnote referring to this introductory note, textile trimmings and accessories which do not satisfy the rule set out in the list in column 3 for the made up products concerned may be used provided that their weight does not exceed 10 % of the total weight of all the textile materials incorporated.

Textile trimmings and accessories are those classified in Chapters 50 to 63. Linings and interlinings are not to be regarded as trimmings or accessories.

7.2. Any non-textile trimmings and accessories or other materials used which contain textiles do not have to satisfy the conditions set out in column 3 even though they fall outside the scope of Note 4.3.

7.3. In accordance with Note 4.3, any non-originating non-textile trimmings and accessories or other product, which do not contain any textiles, may, anyway, be used freely where they cannot be made from the materials listed in column 3.

For example, if a rule in the list says that for a particular textile item, such as a blouse, yarn must be used, this does not prevent the use of metal items, such as buttons, because they cannot be made from textile materials.

7.4. Where a percentage rule applies, the value of trimmings and accessories must be taken into account when calculating the value of the non-originating materials incorporated.

Annex 2 to Annex II

LIST OF WORKING OR PROCESSING REQUIRED TO BE CARRIED OUT ON NON-ORIGINATING MATERIALS IN ORDER THAT THE PRODUCT MANUFACTURED CAN OBTAIN ORIGINATING STATUS

HS heading No	Description of product	Working or processing carried out on non-originating materials that confers originating status
(1)	(2)	(3)
0201	Meat of bovine animals, fresh or chilled	Manufacture from materials of any heading except meat of bovine animals, frozen of heading No 0202
0202	Meat of bovine animals, frozen	Manufacture from materials of any heading except meat of bovine animals, fresh or chilled of heading No 0201
0206	Edible offal of bovine animals, swine, sheep, goats, horses, asses, mules or hinnies, fresh, chilled or frozen	Manufacture from materials of any heading except carcases of heading Nos 0201 to 0205
0210	Meat and edible meat offal, salted, in brine, dried or smoked; edible flours and meals of meat or meat offal	Manufacture from materials of any heading except meat and offal of heading Nos 0201 to 0206 and 0208 or poultry liver of heading No 0207
0302 to 0305	Fish, other than live fish	Manufacture in which all the materials of Chapter 3 used must already be originating
0402, 0404 to 0406	Dairy products	Manufacture from materials of any heading except milk or cream of heading No 0401 or 0402
0403	Buttermilk, curdled milk and cream, yogurt, kephir and other fermented or acidified milk and cream, whether or not concentrated or containing added sugar or other sweetening matter or flavoured or containing added fruit or cocoa	Manufacture in which: — all the materials of Chapter 4 used must already be originating, — any fruit juice (except those of pineapple, lime or grapefruit) of heading No 2009 used must be originating, and — the value of any materials of Chapter 17 used does not exceed 30 % of the ex-works price of the product
0408	Birds' eggs, not in shell and egg yolks, fresh, dried, cooked, by steaming or by boiling in water, moulded, frozen or otherwise preserved, whether or not containing added sugar or other sweetening matter	Manufacture from materials of any heading except birds' eggs of heading No 0407

(1)	(2)	(3)
ex 0502	Prepared pigs', hogs' or boars' bristles and hair	Cleaning, disinfecting, sorting and straightening of bristles and hair
ex 0506	Bones and horn-cores unworked	Manufacture in which all the materials of Chapter 2 used must already be originating
0710 to 0713	Edible vegetables, frozen or dried, provisionally preserved except for heading Nos ex 0710 and ex 0711	Manufacture in which all the vegetable materials used must already be originating
ex 0710	Sweet corn (uncooked or cooked by steaming or boiling in water), frozen	Manufacture from fresh or chilled sweet corn
ex 0711	Sweet corn, provisionally preserved	Manufacture from fresh or chilled sweet corn
0811	Fruit and nuts, uncooked or cooked by steaming or boiling in water, frozen, whether or not containing added sugar or other sweetening matter:	
	— Containing added sugar	Manufacture in which the value of any materials of Chapter 17 used does not exceed 30 % of the value of the ex-works price of the product
	— Other	Manufacture in which all the fruit or nuts used must already be originating
0812	Fruit and nuts provisionally preserved (for example, by sulphur dioxide gas, in brine, in sulphur water or in other preservative solutions), but unsuitable in that state for immediate consumption	Manufacture in which all the fruit or nuts used must already be originating
0813	Fruit, dried, other than that of heading Nos 0801 to 0806; mixtures of nuts or dried fruits of this chapter	Manufacture in which all the fruit or nuts used must already be originating
0814	Peel of citrus fruit or melons (including water-melons), fresh, frozen, dried or provisionally preserved in brine, in sulphur water or in other preservative solutions	Manufacture in which all the fruit or nuts used must already be originating
ex Chapter 11	Products of the milling industry; malt, starches; inulin; whest gluten, except for heading No ex 1106	Manufacture in which all the cereals, edible vegetables, roots and tubers of heading No 0714 or fruit used must already be originating
ex 1106	Flour and meal of the dried, shelled leguminous vegetables of heading No 0713	Drying and milling of leguminous vegetables of heading No 0708
1301	Lac; natural gums, resins, gum-resins and balsams	Manufacture in which the value of any materials of heading No 1301 used may not exceed 50 % of the ex-works price of the product

(1)	(2)	(3)
1501	Lard; other pig fat and poultry fat, rendered, whether or not pressed or solvent-extracted:	
	— Fats from bones or waste	Manufacture from materials of any heading except those of heading Nos 0203, 0206 or 0207 or bones of heading No 0506
	— Other	Manufacture from meat or edible offal of swine of heading Nos 0203 or 0206 or of meat and edible offal of poultry of heading No 0207
1502	Fats of bovine animals, sheep or goats, raw or rendered, whether or not pressed or solvent-extracted:	
	— Fats from bones or waste	Manufacture from materials of any heading except those of heading Nos 0201, 0202, 0204 or 0206 or bones of heading No 0506
	— Other	Manufacture in which all the animal materials of Chapter 2 used must already be originating
1504	Fats and oils and their fractions, of fish or marine mammals, whether or not refined, but not chemically modified:	
	— Solid fractions of fish oils and fats and oils of marine mammals	Manufacture from materials of any heading including other materials of heading No 1504
	— Other	Manufacture in which all the animal materials of Chapters 2 and 3 used must already be originating
ex 1505	Refined lanolin	Manufacture from crude wool grease of heading No 1505
1506	Other animal fats and oils and their fractions, whether or not refined, but not chemically modified:	
	— Solid fractions	Manufacture from materials of any heading including other materials of heading No 1506
	— Other	Manufacture in which all the animal materials of Chapter 2 used must already be originating
ex 1507 to 1515	Fixed vegetable oils and their fractions, whether or not refined, but not chemically modified:	
	— Solid fractions, except for that of Jojoba oil	Manufacture from other materials of heading Nos 1507 to 1515
	— Other, except for:	Manufacture in which all the vegetable materials used must already be originating
	— Tung oil; myrtle wax and Japan wax	
	— Those for technical or industrial uses other than the manufacture of foodstuffs for human Consumption	
ex 1516	Animal or vegetable fats and oils and their fractions, re-esterified, whether or not refined but not further prepared	

(1)	(2)	(3)
ex 1517	Edible liquid mixtures of vegetable oils of heading Nos 1507 to 1515	Manufacture in which all the vegetable materials used must already be originating
ex 1519	Industrial fatty alcohols having the character of artificial waxes	Manufacture from materials of any heading including fatty acids of heading No 1519
1601	Sausages and similar products, of meat, meat offal or blood; food preparations based on these products	Manufacture from animals of Chapter 1
1602	Other prepared or preserved meat, meat offal or blood	Manufacture from animals of Chapter 1
1603	Extracts and juices of meat, fish or crustaceans, molluscs or other aquatic invertebrates	Manufacture from animals of Chapter 1. However, all fish, crustaceans, molluscs or other aquatic invertebrates used must already be originating
1604	Prepared or preserved fish; caviar and caviar substitutes prepared from fish eggs	Manufacture in which all the fish or fish eggs used must already be originating
1605	Crustaceans, molluscs and other aquatic invertebrates, prepared or preserved	Manufacture in which all the crustaceans, molluscs or other aquatic invertebrates used must already be originating
ex 1701	Cane or beet sugar and chemically pure sucrose, in solid form, flavoured or coloured	Manufacture in which the value of any materials of Chapter 17 used does not exceed 30 % of the ex works price of the product
1702	Other sugars, including chemically pure lactose, maltose, glucose and fructose, in solid form; sugar syrups not containing added flavouring or colouring matter; artificial honey, whether or not mixed with natural honey; caramel:	
	— Chemically pure maltose and fructose	Manufacture from materials of any heading including other materials of heading No 1702
	— Other sugars in solid form, flavoured or coloured	Manufacture in which the value of any materials of Chapter 17 used does not exceed 30 % of the ex works price of the product
	— Other	Manufacture in which all the materials used must already be originating
ex 1703	Molasses resulting from the extraction or refining of sugar, flavoured or coloured	Manufacture in which the value of any materials of Chapter 17 used does not exceed 30 % of the ex works price of the product
1704	Sugar confectionery (including white chocolate), not containing cocos	Manufacture in which all the materials used are classified in a heading other than that of the product, provided the value of any other materials of Chapter 17 used does not exceed 30 % of the ex works price of the product
1806	Chocolate and other food preparations containing cocoa	Manufacture in which all the materials used are classified in a heading other than that of the product, provided the value of any materials of Chapter 17 used does not exceed 30 % of the ex works price of the product

(1)	(2)	(3)
1901	Malt extract; food preparations of flour, meal, starch or malt extract, not containing cocoa powder or containing cocoa powder in a proportion by weight of less than 50 %, not elsewhere specified or included; food preparations of goods of heading Nos 0401 to 0404, not containing cocoa powder or containing cocoa powder in a proportion by weight of less than 10 %, not elsewhere specified or included:	
	— Malt extract	Manufacture from cereals of Chapter 10
	— Other	Manufacture in which all the materials used are classified in a heading other than that of the product, provided the value of any materials of Chapter 17 used does not exceed 30 % of the ex works price of the product
1902	Pasta, whether or not cooked or stuffed (with meat or other substances) or otherwise prepared, such as spaghetti, macaroni, noodles, lasagne, gnocchi, ravioli, cannelloni; couscous, whether or not prepared	Manufacture in which all the cereals (except durum wheat), meat, meat offal, fish, crustaceans or molluscs used must already be originating
1903	Tapioca and substitutes therefor prepared from starch, in the form of flakes, grains, pearls, siftings or in similar forms	Manufacture from materials of any heading except potato starch of heading No 1108
1904	Prepared foods obtained by the swelling or roasting of cereals or cereal products (for example, corn flakes); cereals, other than maize (corn), in grain form, pre-cooked or otherwise prepared:	
	— Not containing cocoa	Manufacture in which: — all the cereals and flour (except maize of the species *Zea indurata* and durum wheat and their derivatives) used must be wholly obtained, and — the value of any materials of Chapter 17 used does not exceed 30 % of the ex works price of the product
	— Containing cocoa	Manufacture from materials not classified in heading No 1806, provided the value of any materials of Chapter 17 used does not exceed 30 % of the ex works price of the product
1905	Bread, pastry, cakes, biscuits and other bakers' wares, whether or not containing cocoa; communion wafers, empty cachets of a kind suitable for pharmaceutical use, sealing wafers, rice paper and similar products	Manufacture from materials of any heading, except those of Chapter 11
2001	Vegetables, fruit nuts and other edible parts of plants, prepared or preserved by vinegar or acetic acid	Manufacture in which all the fruit, nuts or vegetables used must already be originating
2002	Tomatoes prepared or preserved otherwise than by vinegar or acetic acid	Manufacture in which all the tomatoes used must already be originating
2003	Mushrooms and truffles, prepared or preserved otherwise than by vinegar or acetic acid	Manufacture in which all the mushrooms or truffles used must already be originating
2004 and 2005	Other vegetables prepared or preserved otherwise than by vinegar or acetic acid, frozen or not frozen	Manufacture in which all the vegetables used must already be originating

(1)	(2)	(3)
2006	Fruit, nuts, fruit-peel and other parts of plants, preserved by sugar (drained, glacé or crystallized)	Manufacture in which the value of any materials of Chapter 17 used does not exceed 30 % of the ex works price of the product
2007	Jams, fruit jellies, marmalades, fruit or nut purée and fruit or nut pastes, being cooked preparations, whether or not containing added sugar or other sweetening matter	Manufacture in which the value of any materials of Chapter 17 used must not exceed 30 % of the ex works price of the product
2008	Fruit, nuts and other edible parts of plants otherwise prepared or preserved, whether or not containing added sugar or other sweetening matter or spirit, not elsewhere specified or included:	
	— Fruit and nuts cooked otherwise than by steaming or boiling in water, not containing added sugar, frozen	Manufacture in which all the fruit and nuts used must already be originating
	— Nuts, not containing added sugar or spirits	Manufacture in which the value of the originating nuts and oil seeds of heading Nos 0801, 0802 and 1202 to 1207 used exceeds 60 % of the ex works price of the product
	— Other	Manufacture in which all the materials used are classified in a heading other than that of the product, provided the value of any materials of Chapter 17 used does not exceed 30 % of the ex works price of the product
ex 2009	Fruit juices (including grape must), unfermented and not containing added spirit, whether or not containing added sugar or other sweetening matter	Manufacture in which all the materials used are classified in a heading other than that of the product, provided the value of any materials of Chapter 17 used does not exceed 30 % of the ex works price of the product
ex 2101	Roasted chicory and extracts, essences and concentrates thereof	Manufacture in which all the chicory used must already be originating
ex 2103	— Sauces and preparations therefor; mixed condiments and mixed seasonings	Manufacture in which all the materials used are classified in a heading other than that of the product. However, mustard flour or meal or prepared mustard may be used
	— Prepared mustard	Manufacture from mustard flour or meal
ex 2104	— Soups and broths and preparations therefor	Manufacture from materials of any heading, except prepared or preserved vegetables of heading Nos 2002 to 2005
	— Homogenized composite food preparations	The rule for the heading in which the product would be classified in bulk shall apply
ex 2106	Sugar syrups, flavoured or coloured	Manufacture in which the value of any materials of Chapter 17 used must not exceed 30 % of the ex works price of the product
2201	Waters, including natural or artificial mineral waters and aerated waters, not containing added sugar or other sweetening matter nor flavoured; ice and snow	Manufacture in which all the water used must already be originating

(1)	(2)	(3)
2202	Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit or vegetable juices of heading No 2009	Manufacture in which all the materials used are classified in a heading other than that of the product, provided the value of any materials of Chapter 17 used does not exceed 30 % of the ex works price of the product and any fruit juice used (except for pineapple, lime and grapefruit juices) must already be originating
ex 2204	Wine of fresh grapes, including fortified wines, and grape must with the addition of alcohol	Manufacture from other grape must
2205	The following, containing grape materials:	Manufacture from materials of any heading, except grapes or any material derived from grapes
ex 2207, ex 2208 and ex 2209	Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances; ethyl alcohol and other spirits, denatured or not; spirits, liqueurs and other spirituous beverages; compound alcoholic preparations of a kind used for the manufacture of beverages; vinegar	
ex 2208	Whiskies of an alcoholic strength by volume of less than 50 % vol.	Manufacture in which the value of any cereal based spirits used does not exceed 15 % of the ex works price of the product
ex 2303	Residues from the manufacture of starch from maize (excluding concentrated steeping liquors), of a protein content, calculated on the dry product, exceeding 40 % by weight	Manufacture in which all the maize used must already be originating
ex 2306	Oil cake and other solid residues resulting from the extraction of olive oil, containing more than 3 % of olive oil	Manufacture in which all the olives used must already be originating
2309	Preparations of a kind used in animal feeding	Manufacture in which all the cereals, sugar or molasses, must or milk used must already be originating
2402	Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes	Manufacture in which at least 70 % by weight of the unmanufactured tobacco or tobacco refuse of heading No 2401 used must already be originating
ex 2403	Smoking tobacco	Manufacture in which at least 70 % by weight of the unmanufactured tobacco or tobacco refuse of heading No 2401 used must already be originating
ex 2504	Natural crystalline graphite, with enriched carbon content, purified and ground	Enriching of the carbon content, purifying and grinding of crude crystalline graphite
ex 2515	Marble, merely cut by sawing or otherwise into blocks or slabs of a rectangular (including square) shape, of a thickness not exceeding 25 cm	Cutting, by sawing or otherwise, of marble (even if already sawn) of a thickness exceeding 25 cm
ex 2516	Granite porphyry, basalt, sandstone and other monumental and building stones, merely cut by sawing or otherwise, into blocks or slabs of a rectangular (including square) shape, of a thickness not exceeding 25 cm	Cutting, by sawing or otherwise, of stones (even if already sawn) of a thickness exceeding 25 cm
ex 2518	Calcined dolomite	Calcination of dolomite not calcined

(1)	(2)	(3)
ex 2519	Crushed natural magnesium carbonate (magnesite), in hermetically sealed containers, and magnesium oxide, whether or not pure, other than fused magnesia or dead-burned (sintered) magnesia	Manufacture in which all the materials used are classified in a heading other than that of the product. However, natural magnesium carbonate (magnesite) may be used
ex 2520	Plasters specially prepared for dentistry	Manufacture in which the value of all the materials used does not exceed 50 % of the ex works price of the product
ex 2524	Natural asbestos fibres	Manufacture from asbestos concentrate
ex 2525	Mica powder	Grinding of mica or mica waste
ex 2530	Earth colours, calcined or powdered	Calcination or grinding of earth colours
ex 2707	Oils in which the weight of the aromatic constituents exceeds that of the non-aromatic constituents, being oils similar to mineral oils obtained by distillation of high temperature coal tar, of which more than 65 % by volume distils at a temperature of up to 250 °C (including mixtures of petroleum spirit and benzole), for use as power or heating fuels	These are Annex 8 products
2709 to 2715	Mineral oils and products of their distillation; bituminous substances; mineral waxes	These are Annex 8 products
ex Chapter 28	Inorganic chemicals; organic or inorganic compounds of precious metals, of rare earth metals, of radioactive elements or of isotopes; except for heading Nos ex 2811 and ex 2833 for which the rules are set out below	Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 20 % of the ex works price of the product
ex 2811	Sulphur trioxide	Manufacture from sulphur dioxide
ex 2833	Aluminium sulphate	Manufacture in which the value of all the materials used does not exceed 50 % of the ex works price of the product
ex Chapter 29	Organic chemicals, except for heading Nos ex 2901, ex 2902, ex 2905, 2915, ex 2932, 2933 and 2934, for which the position is set out below	Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 20 % of the ex works price of the product
ex 2901	Acyclic hydrocarbons for use as power or heating fuels	These are Annex 8 products
ex 2902	Cyclanes and cyclenes (other than azulenes), benzene, toluene, xylenes, for use as power or heating fuels	These are Annex 8 products
ex 2905	Metal alcoholates of alcohols of this heading and of ethanol or glycerol	Manufacture from materials of any heading, including other materials of heading No 2905. However, metal alcoholates of this heading may be used, provided their value does not exceed 20 % of the ex works price of the product
2915	Saturated acyclic monocarboxylic acids and their anhydrides, halides, peroxides and peroxyacids; their halogenated, sulphonated, nitrated or nitrosated derivatives	Manufacture from materials of any heading. However, the value of all the materials of heading Nos 2915 and 2916 used may not exceed 20 % of the ex works price of the product
ex 2932	— Internal ethers and their halogenated, sulphonated, nitrated or nitrosated derivates	Manufacture from materials of any heading. However, the value of all the materials of heading No 2909 used may not exceed 20 % of the ex works price of the product

(1)	(2)	(3)
ex 2932 *(cont'd)*	— Cyclic acetals and internal hemiacetals and their halogenated, sulphonated, nitrated or nitrosated derivates	Manufacture from materials of any heading
2933	Heterocyclic compounds with nitrogen hetero-atom(s) only; nucleic acids and their salts	Manufacture from materials of any heading. However, the value of all the materials of heading Nos 2932 and 2933 used may not exceed 20 % of the ex works price of the product
2934	Other heterocyclic compounds	Manufactured from materials of any heading. However, the value of all the materials of heading Nos 2932, 2933 and 2934 used may not exceed 20 % of the ex works price of the product
ex Chapter 30	Pharmaceutical products, except for heading Nos 3002, 3003 and 3004, for which the rules are set out below	Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 20 % of the ex works price of the product
3002	Human blood; animal blood prepared for therapeutic, prophylactic or diagnostic uses; antisera and other blood fractions; vaccines, toxins, cultures of micro-organisms (excluding yeasts) and similar products:	
	— Products consisting of two or more constituents which have been mixed together for therapeutic or prophylactic uses or unmixed products for these uses, put up in measured doses or in forms or packings for retail sale	Manufacture from materials of any heading, including other materials of heading No 3002. The materials of this description may also be used, provided their value does not exceed 20 % of the ex works price of the product
	— Other:	
	— Human blood	Manufacture from materials of any heading, including other materials of heading No 3002. The materials of this description may also be used, provided their value does not exceed 20 % of the ex works price of the product
	— Animal blood prepared for therapeutic or prophylactic uses	Manufacture from materials of any heading, including other materials of heading No 3002. The materials of this description may also be used, provided their value does not exceed 20 % of the ex works price of the product
	— Blood fractions other than antisera, haemoglobin and serum globulin	Manufacture from materials of any heading, including other materials of heading No 3002. The materials of this description may also be used, provided their value does not exceed 20 % of the ex works price of the product
	— Haemoglobin, blood globulin and serum globulin	Manufacture from materials of any heading, including other materials of heading No 3002. The materials of this description may also be used, provided their value does not exceed 20 % of the ex works price of the product
	— Other	Manufacture from materials of any heading, including other materials of heading No 3002. The materials of this description may also be used, provided their value does not exceed 20 % of the ex works price of the product

(1)	(2)	(3)
3003 and 3004	Medicaments (excluding goods of heading Nos 3002, 3005 or 3006)	Manufacture in which: — all the materials used are classified within a heading other than that of the product. However, materials of heading No 3003 or 3004 may be used provided their value, taken together, does not exceed 20 % of the ex works price of the product, and — the value of all the materials used does not exceed 50 % of the ex works price of the product
ex Chapter 31	Fertilizers except for heading Nos ex 3103 and ex 3105, for which the rules are set out below	Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 20 % of the ex works price of the product
ex 3103	Crushed and powdered calcined natural aluminium calcium phosphates	Crushing and powdering of calcined natural aluminium calcium phosphates
ex 3105	Mineral or chemical fertilizers containing two or three of the fertilizing elements nitrogen, phosphorus and potassium; other fertilizers; goods of this chapter, in tablets or similar forms or in packages of a gross weight not exceeding 10 kg, except for: — Sodium nitrate — Calcium cyanamide — Potassium sulphate — Magnesium potassium sulphate	Manufacture in which: — all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 20 % of the ex works price of the product, and — the value of all the materials used does not exceed 50 % of the ex works price of the product
ex Chapter 32	Tanning or dyeing extracts; tannins and their derivatives; dyes, pigments and other colouring matter; paints and varnishes; putty and other mastics; inks; except for heading Nos ex 3201 and 3205, for which the rules are set out below	Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 20 % of the ex works price of the product
ex 3201	Tannins and their salts, ethers, esters and other derivatives	Manufacture from tanning extracts of vegetable origin
3205	Colour lakes; preparations as specified in note 3 to this chapter based on colour lakes (1)	Manufacture from materials of any heading, except heading Nos 3202 and 3204 provided the value of any materials classified in heading No 3205 does not exceed 20 % of the ex works price of the product
ex Chapter 33	Essential oils and resinoids; perfumery, cosmetic or toilet preparations; except for heading No 3301, for which the rule is set out below	Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 20 % of the ex works price of the product
3301	Essential oils (terpeneless or not), including concretes and absolutes; resinoids; concentrates of essential oils in fats, in fixed oils, in waxes or the like, obtained by enfleurage or maceration; terpenic by-products of the deterpenation of essential oils; aqueous distillates and aqueous solutions of essential oils	Manufacture from materials of any heading, including materials of a different 'group' (2) within this heading. However, materials of the same group may be used, provided their value does not exceed 20 % of the ex works price of the product

(1) Note 3 to Chapter 32 says that these preparations are those of a kind used for colouring any material or used as ingredients in the manufacturing of colouring preparations, provided they are not classified within another heading in Chapter 32.

(2) A 'group' is regarded as any part of the heading separated from the rest by a semi-colon.

(1)	(2)	(3)
ex Chapter 34	Soap, organic surface-active agents, washing preparations, lubricating preparations, artificial waxes, prepared waxes, polishing or scouring preparations, candles and similar articles, modelling pastes, 'dental waxes' and dental preparations with a basis of plaster; except for heading Nos ex 3403 and 3404, for which the position is set out below	Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 20 % of the ex works price of the product
ex 3403	Lubricating preparations containing petroleum oils or oils obtained from bituminous minerals, provided they represent less than 70 % by weight	These are Annex 8 products
3404	Artificial waxes and prepared waxes:	
	— With a basis of paraffin, petroleum waxes, waxes obtained from bituminous minerals, slack wax or scale wax	These are Annex 8 products
	— Other	Manufacture from materials of any heading, except: — hydrogenated oils having the character of waxes of heading No 1516 — fatty acids not chemically defined or industrial fatty alcohols having the character of waxes of heading No 1519 — materials of heading No 3404. However, these materials may be used provided their value does not exceed 20 % of the ex works price of the product
ex Chapter 35	Albuminoidal substances; modified starches; glues; enzymes; except for heading Nos 3505 and ex 3507 for which the rules are set out below	Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 20 % of the ex works price of the product
3505	Dextrins and other modified starches (for example, pregelatinized or esterified starches); glues based on starches, or on dextrins or other modified starches:	
	— Starch ethers and esters	Manufacture from materials of any heading, including other materials of heading No 3505
	— Other	Manufacture from materials of any heading, except those of heading No 1108
ex 3507	Prepared enzymes not elsewhere specified or included	Manufacture in which the value of all the materials used does not exceed 50 % of the ex works price of the product
Chapter 36	Explosives; pyrotechnic products; matches; pyrophoric alloys; certain combustible preparations	Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 20 % of the ex works price of the product
ex Chapter 37	Photographic or cinematographic goods; except for heading Nos 3701, 3702 and 3704 for which the rules are set out below	Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 20 % of the ex works price of the product

(1)	(2)	(3)
3701	Photographic plates and film in the flat, sensitized, unexposed, of any material other than paper, paperboard or textiles; instant print film in the flat, sensitized, unexposed, whether or not in packs	Manufacture in which all the materials used are classified in a heading other than heading No 3702
3702	Photographic film in rolls, sensitized, unexposed, of any material other than paper, paperboard or textiles; instant print film in rolls, sensitized, unexposed	Manufacture in which all the materials used are classified within a heading other than heading No 3701 or 3702
3704	Photographic plates, film, paper, paperboard and textiles, exposed but not developed	Manufacture in which all the materials used are classified within a heading other than heading Nos 3701 to 3704
ex Chapter 38	Miscellaneous chemical products; except for heading Nos ex 3801, ex 3803, ex 3805, ex 3806, ex 3807, 3808 to 3814, 3818 to 3820, 3822 and 3823 for which the rules are set out below:	Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 20 % of the ex works price of the product
ex 3801	— Colloidal graphite in suspension in oil and semi-colloidal graphite; carbonaceous pastes for electrodes	Manufacture in which the value of all the materials used does not exceed 50 % of the ex works price of the product
	— Graphite in paste form, being a mixture of more than 30 % by weight of graphite with mineral oils	Manufacture from materials of any heading. However, the value of the materials of heading No 3403 used must not exceed 20 % of the ex works price of the product
ex 3803	Refined tall oil	Refining of crude tall oil
ex 3805	Spirits of sulphate turpentine, purified	Purification by distillation or refining of raw spirits of sulphate turpentine
ex 3806	Ester gums	Manufacture from resin acids
ex 3807	Wood pitch (wood tar pitch)	Distillation of wood tar
3808 to 3814 3818 to 3820 3822 and 3823	Miscellaneous chemical products:	
	— Prepared additives for lubricating oil, containing petroleum oils or oils obtained from bituminous minerals, of heading No 3811	These are Annex 8 products
	— The following of heading No 3823:	Manufacture in which all the materials used are classified within a heading other than that of the product. However, materials classified within the same heading may be used provided their value does not exceed 20 % of the ex works price of the product
	— Prepared binders for foundry moulds or cores based on natural resinous products	
	— Naphthenic acids, their water insoluble salts and their esters	
	— Sorbitol other than that of heading No 2905	
	— Petroleum sulphonates, excluding petroleum sulphonates of alkali metals, of ammonium or of ethanolamines; thiophenated sulphonic acids of oils obtained from bituminous minerals, and their salts	
	— Ion exchangers	
	— Getters for vacuum tubes	
	— Alkaline iron oxide for the purification of gas	

(1)	(2)	(3)
3808 to 3814 3818 to 3820 3822 and 3823 *(cont'd)*	— Ammoniacal gas liquors and spent oxide produced in coal gas purification — Sulphonaphthenic acids, their water insoluble salts and their esters — Fusel oil and Dippel's oil — Mixtures of salts having different anions — Copying pastes with a basis of gelatin, whether or not on a paper or textile backing	
	— Other	Manufacture in which the value of all the materials used does not exceed 50 % of the ex works price of the product
3901 to 3915	Plastics in primary forms, waste, parings and scrap, of plastic:	Manufacture in which:
	— Addition homopolymerization products	— the value of all the materials used does not exceed 50 % of the ex works price of the product, and — the value of any materials of Chapter 39 used does not exceed 20 % of the ex works price of the product (1)
	— Other	Manufacturing in which the value of the materials of Chapter 39 used does not exceed 20 % of the ex works price of the product (1)
3916 to 3921	Semi-manufactures of plastics:	
	— Flat products, further worked than only surface-worked or cut into forms other than rectangles; other products, further worked than only surface-worked	Manufacture in which the value of any materials of Chapter 39 used does not exceed 50 % of the ex works price of the product
	— Other:	
	— Addition homopolymerization products	Manufacture in which:
		— the value of all the materials used does not exceed 50 % of the ex works price of the product, and — the value of any materials of Chapter 39 used does not exceed 20 % of the ex works price of the product (1)
	— Other	Manufacture in which the value of any materials of Chapter 39 used does not exceed 20 % of the ex works price of the product (1)
3922 to 3926	Articles of plastic	Manufacture in which the value of all the materials used does not exceed 50 % of the ex works price of the product
ex 4001	Laminated slabs of crepe rubber for shoes	Lamination of sheets of natural rubber
4005	Compounded rubber, unvulcanized, in primary forms or in plates, sheets or strip	Manufacture in which the value of all the materials used, except natural rubber, does not exceed 50 % of the ex works price of the product
4012	Retreaded or used pneumatic tyres of rubber; solid or cushion tyres, interchangeable tyre treads and tyre flaps of rubber	Manufacture from materials of any heading, except those of heading Nos 4011 or 4012
ex 4017	Articles of hard rubber	Manufacture from hard rubber

(1) In the case of products composed of materials classified within both heading Nos 3901 to 3906, on the one hand, and within heading Nos 3907 to 3911, on the other hand, this restriction only applies to that group of materials which predominates by weight in the product.

(1)	(2)	(3)
ex 4102	Raw skins of sheep or lambs, without wool on	Removal of wool from sheep or lamb skins, with wool on
4104 to 4107	Leather, without hair or wool other than leather of heading No 4108 or 4109	Retanning of pre-tanned leather or Manufacture in which all the materials used are classified in a heading other than that of the product
4109	Patent leather and patent laminated leather; metallized leather	Manufacture from leather of heading Nos 4104 to 4107 provided its value does not exceed 50 % of the ex works price of the product
ex 4302	Tanned or dressed furskins, assembled:	
	— Plates, crosses and similar forms	Bleaching or dyeing, in addition to cutting and assembly of non-assembled tanned or dressed furskins
	— Other	Manufacture from non-assembled, tanned or dressed furskins
4303	Articles of apparel, clothing accessories and other articles of furskin	Manufacture from non-assembled, tanned or dressed furskins, of heading No 4302
ex 4403	Wood roughly squared	Manufacture from wood in the rough, whether or not stripped of its bark or merely roughed down
ex 4407	Wood sawn or chipped lengthwise, sliced or peeled, of a thickness exceeding 6 mm, planed, sanded or finger-jointed	Planing, sanding or finger-jointing
ex 4408	Veneer sheets and sheets for plywood, of a thickness not exceeding 6 mm, spliced, and other wood sawn lengthwise, sliced or peeled, of a thickness not exceeding 6 mm, planed, sanded or finger-jointed	Splicing, planing, sanding or finger-jointing
ex 4409	— Wood (including strips and friezes for parquet flooring, not assembled) continuously shaped (tongued, grooved, rebated, chamfered, V-jointed, beaded, moulded, rounded or the like) along any of its edges or faces, sanded or finger-jointed	Sanding or finger-jointing
	— Beadings and mouldings	Beading or moulding
ex 4410 to ex 4413	Beadings and mouldings, including moulded skirting and other moulded boards	Beading or moulding
ex 4415	Packing cases, boxes, crates, drums and similar packings, of wood	Manufacture from boards not cut to size
ex 4416	Casks, barrels, vats, tubs and other coopers' products and parts thereof, of wood	Manufacture from riven staves, not further worked than sawn on the two principal surfaces
ex 4418	— Builders' joinery and carpentry of wood	Manufacture in which all the materials used are classified within a heading other than that of the product. However, cellular wood panels, shingles and shales may be used
	— Beadings and mouldings	Beading or moulding
ex 4421	Match splints; wooden pegs or pins for footwear	Manufacture from wood of any heading except drawn wood of heading No 4409

(1)	(2)	(3)
4503	Articles of natural cork	Manufacture from cork of heading No 4501
ex 4811	Paper and paperboard, ruled, lined or squared only	Manufacture from paper-making materials of Chapter 47
4816	Carbon paper, self-copy paper and other copying or transfer papers (other than those of heading No 4809), duplicator stencils and offset plates, of paper, whether or not put up in boxes	Manufacture from paper-making materials of Chapter 47
4817	Envelopes, letter cards, plain postcards and correspondence cards, of paper or paperboard; boxes, pouches, wallets and writing compendiums, of paper or paperboard, containing an assortment of paper stationery	Manufacture in which: — all the materials used are classified within a heading other than that of the product, and — the value of all the materials used does not exceed 50 % of the ex works price of the product
ex 4818	Toilet paper	Manufacture from paper-making materials of Chapter 47
ex 4819	Cartons, boxes, cases, bags and other packing containers, of paper, paperboard, cellulose wadding or webs of cellulose fibres	Manufacture in which: — all the materials used are classified within a heading other than that of the product, and — the value of all the materials used does not exceed 50 % of the ex works price of the product
ex 4820	Letter pads	Manufacture in which the value of all the materials used does not exceed 50 % of the ex works price of the product
ex 4823	Other paper, paperboard, cellulose wadding and webs of cellulose fibres, cut to size or shape	Manufacture from paper-making materials of Chapter 47
4909	Printed or illustrated postcards; printed cards bearing personal greetings, messages or announcements, whether or not illustrated, with or without envelopes or trimmings	Manufacture from materials not classified within heading No 4909 or 4911
4910	Calendars of any kind, printed, including calendar blocks:	
	— Calenders of the 'perpetual' type or with replaceable blocks mounted on bases other than paper or paperboard	Manufacture in which: — all the materials used are classified within a heading other than that of the product, and — the value of all the materials used does not exceed 50 % of the ex works price of the product
	— Other	Manufacture from materials not classified within heading No 4909 or 4911
ex 5003	Silk waste (including cocoons unsuitable for reeling, yarn waste and garnetted stock), carded or combed	Carding or combing of silk waste
5501 to 5507	Man-made staple fibres	Manufacture from chemical materials or textile pulp
ex Chapter 50 to Chapter 55	Yarn, monofilament and thread	Manufacture from (1): — natural fibres not carded or combed or otherwise processed for spinning, — chemical materials or textile pulp, or — paper-making materials

(1) For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

(1)	(2)	(3)
ex Chapter 50 to Chapter 55 *(cont'd)*	Woven fabrics:	
	— Incorporating rubber thread	Manufacture from single yarn (1)
	— Other	Manufacture from (1): — coir yarn, — natural fibres, — man-made staple fibres not carded or combed or otherwise processed for spinning, — chemical materials or textile pulp, or — paper or Printing accompanied by at least two preparatory or finishing operations (such as scouring, bleaching, mercerizing, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling) where the value of the unprinted fabric used does not exceed 47,5 % of the ex works price of the product
ex Chapter 56	Wadding, felt and non-wovens; special yarns, twine cordage, ropes and cables and articles thereof except for heading Nos 5602, 5604, 5605 and 5606, for which the rules are set out below	Manufacture from (1): — coir yarn, — natural fibres, — chemical materials or textile pulp, or — paper-making materials
5602	Felt, whether or not impregnated, coated, covered or laminated:	
	— Needleloom felt	Manufacture from (1): — natural fibres, — chemical materials or textile pulp However: — polypropylene filament of heading No 5402, — polypropylene fibres of heading No 5503 or 5506, or — polypropylene filament tow of heading No 5501, of which the denomination in all cases of a single filament or fibre is less than 9 decitex may be used provided that their value does not exceed 40 % of the ex works price of the product
	— Other	Manufacture from (1): — natural fibres, — man-made staple fibres made from casein, or — chemical materials or textile pulp
5604	Rubber thread and cord, textile covered; textile yarn, and strip and the like of heading No 5404 or 5405, impregnated, coated, covered or sheathed with rubber or plastics:	
	— Rubber thread and cord, textile covered	Manufacture from rubber thread or cord, not textile covered

(1) For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

(1)	(2)	(3)
5604 *(cont'd)*	— Other	Manufacture from (1): — natural fibres not carded or combed or otherwise processed for spinning, — chemical materials or textile pulp, or — paper-making materials
5605	Metallized yarn, whether or not gimped, being textile yarn, or strip or the like of heading No 5404 or 5405, combined with metal in the form of thread, strip or powder or covered with metal	Manufacture from (1): — natural fibres, — man-made staple fibres not carded or combed or otherwise processed for spinning, — chemical materials or textile pulp, or — paper-making materials
5606	Gimped yarn, and strip and the like of heading No 5404 or 5405, gimped (other then those of heading No 5605 and gimped horsehair yarn); chenille yarn (including flock chenille yarn); loop wale-yarn	Manufacture from (1): — natural fibres, — man-made staple fibres not carded or combed or otherwise processed for spinning, — chemical materials or textile pulp, or — paper-making materials
Chapter 57	Carpets and other textile floor coverings:	
	— Of needleloom felt	Manufacture from (1): — natural fibres, or — chemical materials or textile pulp. However: — polypropylene filament of heading No 5402, — polypropylene fibres of heading No 5503 or 5506, or — polypropylene filament tow of heading No 5501 of which the denomination in all cases of a single filament or fibre is less than 9 decitex may be used provided that their value does not exceed 40 % of the ex works price of the product
	— Of other felt	Manufacture from (1): — natural fibres not carded or combed or otherwise processed for spinning, or — chemical materials or textile pulp
	— Other	Manufacture from (1): — coir yarn, — synthetic or artificial filament yarn, — natural fibres, or — man-made staple fibres not carded or combed or otherwise processed for spinning

(1) For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

(1)	(2)	(3)
ex Chapter 58	Special woven fabrics; tufted textile fabrics; lace; tapestries; trimmings, embroidery, except for heading Nos 5805 and 5810; the rule for heading No 5810 is set out below:	
	— Combined with rubber thread	Manufacture from single yarn (1)
	— Other	Manufacture from (1): — natural fibres, — man-made staple fibres not carded or combed or otherwise processed for spinning, or — chemical materials or textile pulp or Printing accompanied by at least a finishing operations (such as scouring, bleaching, mercerizing, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling) where the value of the unprinted fabric used does not exceed 47,5 % of the ex works price of the product
5810	Embroidery in the piece, in strips or in motifs	Manufacture in which the value of all the materials used does not exceed 50 % of the ex works price of the product
5901	Textile fabrics coated with gum or amylaceous substances, of a kind used for the outer covers of books or the like; tracing cloth; prepared painting canvas; buckram and similar stiffened textile fabrics of a kind used for hat foundations	Manufacture from yarn
5902	Tyre cord fabric of high tenacity yarn of nylon or other polyamides, polyesters or viscose rayon:	
	— Containing not more than 90 % by weight of textile materials	Manufacture from yarn
	— Other	Manufacture from chemical materials or textile pulp
5903	Textile fabrics impregnated, coated, covered or laminated with plastics, other than those of heading No 5902	Manufacture from yarn
5904	Linoleum, whether or not cut to shape; floor coverings consisting of a coating or covering applied on a textile backing, whether or not cut to shape	Manufacture from yarn (1)
5905	Textile wall coverings:	
	— Impregnated, coated, covered or laminated with rubber, plastics or other materials	Manufacture from yarn

(1) For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

(1)	(2)	(3)
5905 *(cont'd)*	— Other	Manufacture from (1): — coir yarn, — natural fibres, — man-made staple fibres not carded or combed or otherwise processed for spinning, or — chemical materials or textile pulp or Printing accompanied by at least finishing operation (such as scouring, bleaching, mercerizing, heat setting, raising, calendering, shrink resistance processing, permanent finishing, decatizing, impregnating, mending and burling) where the value of the unprinted fabric used does not exceed 47,5 % of the ex works price of the product
5906	Rubberized textile fabrics, other than those of heading No 5902:	
	— Knitted or crocheted fabrics	Manufacture from (1): — natural fibres, — man-made staple fibres not carded or combed or otherwise processed for spinning, or — chemical materials or textile pulp
	— Other fabrics made of synthetic filament yarn, containing more than 90 % by weight of textile materials	Manufacture from chemical materials
	— Other	Manufacture from yarn
5907	Textile fabrics otherwise impregnated, coated or covered; painted canvas being theatrical scenery, studio backcloths or the like	Manufacture from yarn
ex 5908	Incandescent gas mantles, impregnated	Manufacture from tubular knitted gas mantle fabric
5909 to 5911	Textile articles of a kind suitable for industrial use:	
	— Polishing discs or rings other than of felt of heading No 5911	Manufacture from yarn or waste fabrics or rags of heading No 6310
	— Other	Manufacture from (1): — coir yarn, — natural fibres, — man-made staple fibres not carded or combed or otherwise processed for spinning, or — chemical materials or textile pulp
Chapter 60	Knitted or crocheted fabrics	Manufacture from (1): — natural fibres, — man-made staple fibres not carded or combed or otherwise processed for spinning, or — chemical materials or textile pulp

(1) For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

(1)	(2)	(3)
Chapter 61	Articles of apparel and clothing accessories, knitted or crocheted:	
	— Obtained by sewing together or otherwise assembling, two or more pieces of knitted or crocheted fabric which have been either cut to form or obtained directly to form	Manufacture from yarn (1)
	— Other	Manufacture from (2): — natural fibres, — man-made staple fibres not carded or combed or otherwise processed for spinning, or — chemical materials or textile pulp
ex Chapter 62	Articles of apparel and clothing accessories, not knitted or crocheted, except for heading Nos ex 6202, ex 6204, ex 6206, ex 6209, ex 6210, 6213, 6214, ex 6216 and ex 6217 for which the rules are set out below	Manufacture from yarn (1)
ex 6202 ex 6204 ex 6206 ex 6209 and ex 6217	Women's, girls' and babies' clothing and 'other made-up clothing accessories', embroidered	Manufacture from yarn (1) or Manufacture from unembroidered fabric provided the value of the unembroidered fabric used does not exceed 40 % of the ex works price of the product (1)
ex 6210 ex 6216 and ex 6217	Fire-resistant equipment of fabric covered with foil of aluminized polyester	Manufacture from yarn (1) or Manufacture from uncoated fabric provided the value of the uncoated fabric used does not exceed 40 % of the ex works price of the product (1)
6213 and 6214	Handkerchiefs, shawls, scarves, mufflers, mantillas, veils and the like:	
	— Embroidered	Manufacture from unbleached single yarn (1) (2) or Manufacture from unembroidered fabric provided the value of the unembroidered fabric used does not exceed 40 % of the ex works price of the product (1)
	— Other	Manufacture from unbleached single yarn (1) (2)
6301 to 6304	Blankets, travelling rugs, bed linen etc.; curtains, etc.; other furnishing articles:	
	— Of felt, of non-wovens	Manufacture from (2): — natural fibres, or — chemical materials or textile pulp
	— Other:	
	— Embroidered	Manufacture from unbleached single yarn (2) or Manufacture from unembroidered fabric (other than knitted or crocheted) provided the value of the unembroidered fabric used does not exceed 40 % of the ex works price of the product
	— Other	Manufacture from unbleached single yarn (2)

(1) See Introductory Note 7 for the treatment of textile trimmings and accessories.
(2) For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.

(1)	(2)	(3)
6305	Sacks and bags, of a kind used for the packing of goods	Manufacture from (1): — natural fibres, — man-made staple fibres not carded or combed or otherwise processed for spinning, or — chemical materials or textile pulp
6306	Tarpaulins, sails for boats, sailboards or landcraft, awnings, sunblinds, tents and camping goods:	
	— Of non-wovens	Manufacture from (1): — natural fibres, or — chemical materials or textile pulp
	— Other	Manufacture from unbleached single yarn
ex 6307	Other made-up articles, including dress patterns	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
6308	Sets consisting of woven fabric and yarn, whether or not with accessories, for making up into rugs, tapestries, embroidered table cloths or serviettes or similar textile articles, put up in packings for retail sale	Each item in the set must satisfy the rule which would apply to it if it were not included in the set. However, non-originating articles may be incorporated provided their total value does not exceed 15 % of the ex works price of the set
6401 to 6405	Footwear	Manufacture from materials of any heading except for assemblies of uppers affixed to inner soles or to other sole components of heading No 6406
6503	Felt hats and other felt headgear, made from the hat bodies, hoods or plateaux of heading No 6501, whether or not lined or trimmed	Manufacture from yarn or textile fibres (2)
6505	Hats and other headgear, knitted or crocheted, or made up from lace, felt or other textile fabric, in the piece (but not in strips), whether or not lined or trimmed; hair-nets of any material, whether or not lined or trimmed	Manufacture from yarn or textile fibres (2)
6601	Umbrellas and sun umbrellas (including walking-stick umbrellas, garden umbrellas and similar umbrellas)	Manufacture in which the value of all the materials used does not exceed 50 % of the ex works price of the product
ex 6803	Articles of slate or of agglomerated slate	Manufacture from worked slate
ex 6812	Articles of asbestos or of mixtures with a basis of asbestos or with a basis of asbestos and magnesium carbonate	Manufacture from fabricated asbestos fibres or from mixtures with a basis of asbestos or with a basis of asbestos and magnesium carbonate
ex 6814	Articles of mica; including agglomerated or reconstituted mica on a support of paper, paperboard or other materials	Manufacture from worked mica (including agglomerated or reconstituted mica)
7006	Glass of heading No 7003, 7004 or 7005, bent, edge-worked, engraved, drilled, enamelled or otherwise worked, but not framed or fitted with other materials	Manufacture from materials of heading No 7001

(1) For special conditions relating to products made of a mixture of textile materials, see Introductory Note 6.
(2) See Introductory Note 7 for the treatment of textile trimmings and accessories.

(1)	(2)	(3)
7007	Safety glass, consisting of toughened (tempered) or laminated glass	Manufacture from materials of heading No 7001
7008	Multiple-walled insulating units of glass	Manufacture from materials of heading No 7001
7009	Glass mirrors, whether or not framed, including rear-view mirrors	Manufacture from materials of heading No 7001
7010	Carboys, bottles, flasks, jars, pots, phials, ampoules and other containers, of glass, of a kind used for the conveyance or packing of goods; preserving jars of glass; stoppers, lids and other closures, of glass	Manufacture in which all the materials used are classified within a heading other than that of the product or Cutting of glassware, provided the value of the uncut glassware does not exceed 50 % of the ex works price of the product
7013	Glassware of a kind used for table, kitchen, toilet, office, indoor decoration or similar purposes (other than that of heading No 7010 or 7018)	Manufacture in which all the materials used are classified within a heading other than that of the product and Cutting of glassware, provided the value of the uncut glassware does not exceed 50 % of the ex works price of the product or Hand-decoration (with the exception of silk screen printing) of hand-blown glassware, provided the value of the hand-blown glassware does not exceed 50 % of the ex works price of the product
ex 7019	Articles (other than yarn) of glass fibres	Manufacture from: — uncoloured slivers, rovings, yarn or chopped strands, or — glass wool
ex 7102 ex 7103 and ex 7104	Worked precious or semi-precious stones (natural, synthetic or reconstructed)	Manufacture from unworked precious or semi-precious stones
7106 7108 and 7110	Precious metals: — Unwrought	Manufacture from materials not classified in heading No 7106, 7108 or 7110 or Electrolytic, thermal or chemical separation of precious metals of heading No 7106, 7108 or 7110 or Alloying of precious metals of heading No 7106, 7108 or 7110 with each other or with base metals
	— Semi-manufactured or in powder form (All)	Manufacture from unwrought precious metals
ex 7107 ex 7109 and ex 7111	Metals clad with precious metals, semi-manufactured	Manufacture from metals clad with precious metals, unwrought
7116	Articles of natural or cultured pearls, precious or semi-precious stones (natural, synthetic or reconstructed)	Manufacture in which the value of all the materials used does not exceed 50 % of the ex works price of the product
7117	Imitation jewellery	Manufacture in which all the materials used are classified within a heading other than that of the product or Manufacture from base metal parts, not plated or covered with precious metals, provided the value of all the materials used does not exceed 50 % of the ex works price of the product

(1)	(2)	(3)
7207	Semi-finished products of iron or non-alloy steel	Manufacture from materials of heading No 7201, 7202, 7203, 7204 or 7205
7208 to 7216	Flat-rolled products, bars and rods, angles, shapes and sections of iron or non-alloy steel	Manufacture from ingots or other primary forms of heading No 7206
7217	Wire of iron or non-alloy steel	Manufacture from semi-finished materials of heading No 7207
ex 7218 7219 to 7222	Semi-finished products, flat-rolled products, bars and rods, angles, shapes and sections of stainless steel	Manufacture from ingots or other primary forms of heading No 7218
7223	Wire of stainless steel	Manufacture from semi-finished materials of heading No 7218
ex 7224 7225 to 7227	Semi-finished products, flat-rolled products, bars and rods, in irregularly wound coils, of other alloy steel	Manufacture from ingots or other primary forms of heading No 7224
7228	Other bars and rods of other alloy steel; angles, shapes and sections, of other alloy steel; hollow drill bars and rods, of alloy or non-alloy steel	Manufacture from ingots or other primary forms of heading No 7206, 7218 or 7224
7229	Wire of other alloy steel	Manufacture from semi-finished materials of heading No 7224
ex 7301	Sheet piling	Manufacture from materials of heading No 7203
7302	Railway or tramway track construction material of iron or steel, the following: rails, check-rails and rack rails, switch blades, crossing frogs, point rods and other crossing pieces, sleepers (cross-ties), fish-plates, chairs, chair wedges, sole plates (base plates), rail clips, bedplates, ties and other material specialized for jointing or fixing rails	Manufacture from materials of heading No 7206
7304 7305 and 7306	Tubes, pipes and hollow profiles, of iron (other than cast iron) or steel	Manufacture from materials of heading No 7206, 7207, 7218 or 7224
7308	Structures (excluding prefabricated buildings of heading No 9406) and parts of structures (for example, bridges and bridge-sections, lock-gates, towers, lattice masts, roofs, roofing frameworks, doors and windows and their frames and thresholds for doors, shutters, balustrades, pillars and columns), of iron or steel; plates, rods, angles, shapes, sections, tubes and the like, prepared for use in structures, of iron or steel	Manufacture in which all the materials used are classified within a heading other than that of the product. However, welded angles, shapes and sections of heading No 7301 may not be used
ex 7315	Skid-chains	Manufacture in which the value of all the materials of heading No 7315 used does not exceed 50 % of the ex works price of the product
ex 7322	Radiators for central heating, not electrically heated	Manufacture in which the value of all the materials of heading No 7322 used does not exceed 5 % of the ex works price of the product

(1)	(2)	(3)
ex Chapter 74	Copper and articles thereof, except for heading Nos 7401 to 7405; the rule for heading No ex 7403 is set out below	Manufacture in which: — all the materials used are classified within a heading other than that of the product, and — the value of all the materials used does not exceed 50 % of the ex works price of the product
ex 7403	Copper alloys, unwrought	Manufacture from refined copper, unwrought, or waste and scrap
ex Chapter 75	Nickel and articles thereof, except for heading Nos 7501 to 7503	Manufacture in which: — all the materials used are classified within a heading other than that of the product, and — the value of all the materials used does not exceed 50 % of the ex works price of the product
ex Chapter 76	Aluminium and articles thereof, except for heading Nos 7601 and 7602; the rule for heading No ex 7601 is set out below	Manufacture in which — all the materials used are classified within a heading other than that of the product, and — the value of all the materials used does not exceed 50 % of the ex works price of the product
ex 7601	— Aluminium alloys	Manufacture from aluminium, not alloyed, or waste and scrap
	— 'Super-pure' aluminium (ISO No Al 99.99)	Manufacture from aluminium, not alloyed (ISO No Al 99,8)
ex Chapter 78	Lead and articles thereof, except for heading Nos 7801 and 7802; the rule for heading No 7801 is set out below	Manufacture in which: — all the materials used are classified within a heading other than that of the product, and — the value of all the materials used does not exceed 50 % of the ex works price of the product
7801	Unwrought lead:	
	— Refined lead	Manufacture from 'bullion' or 'work' lead
	— Other	Manufacture in which all the materials used are classified in a heading other than that of the product. However, waste and scrap of heading No 7802 may not be used
ex Chapter 79	Zinc and articles thereof, except for heading Nos 7901 and 7902; the rule for heading No 7901 is set out below	Manufacture in which: — all the materials used are classified in a heading other than that of the product, and — the value of all the materials used does not exceed 50 % of the ex works price of the product
7901	Unwrought zinc	Manufacture in which all the materials used are classified in a heading other than that of the product. However, waste and scrap of heading No 7902 may not be used

(1)	(2)	(3)
ex Chapter 80	Tin and articles thereof, except for heading Nos 8001, 8002 and 8007; the rule for heading No 8001 is set out below	Manufacture in which: — all the materials used are classified in a heading other than that of the product, and — the value of all the materials used does not exceed 50 % of the ex works price of the product
8001	Unwrought tin	Manufacture in which all the materials used are classified in a heading other than that of the product. However, waste and scrap of heading No 8002 may not be used
ex Chapter 81	Other base metals, wrought; articles thereof	Manufacture in which the value of all the materials classified in the same heading as the products used does not exceed 50 % of the ex works price of the product
8206	Tools of two or more of the heading Nos 8202 to 8205, put up in sets for retail sale	Manufacture in which all the materials used are classified in a heading other than heading Nos 8202 to 8205. However, tools of heading Nos 8202 to 8205 may be incorporated into the set provided their value does not exceed 15 % of the ex works price of the set
8207	Interchangeable tools for hand tools, whether or not power-operated, or for machine-tools (for example, for pressing, stamping, punching, tapping, threading, drilling, boring, broaching, milling, turning or screwdriving), including dies for drawing or extruding metal, and rock-drilling or earth-boring tools	Manufacture in which: — all the materials used are classified in a heading other than that of the product, and — the value of all the materials used does not exceed 40 % of the ex works price of the product
8208	Knives and cutting blades, for machines or for mechanical appliances	Manufacture in which: — all the materials used are classified in a heading other than that of the product, and — the value of all the materials used does not exceed 40 % of the ex works price of the product
ex 8211	Knives with cutting blades, serrated or not (including pruning knives), other than knives of heading No 8208	Manufacture in which all the materials used are classified in a heading other than that of the product. However, knife blades and handles of base metal may be used
8214	Other articles of cutlery (for example, hair clippers, butcher's or kitchen cleavers, choppers and mincing knives, paper knives); manicure or pedicure sets and instruments (including nail files)	Manufacture in which all the materials used are classified in a heading other than that of the product. However, handles of base metal may be used
8215	Spoons, forks, ladles, skimmers, cake-servers, fish-knives, butter-knives, sugar tongs and similar kitchen or tableware	Manufacture in which all the materials used are classified in a heading other than that of the product. However, handles of base metal may be used

(1)	(2)	(3)
ex 8306	Statuettes and other ornaments, of base metal	Manufacture in which all the materials used are classified in a heading other than that of the product. However, the other materials of heading No 8306 may be used provided their value does not exceed 30 % of the ex works price of the product
ex Chapter 84	Nuclear reactors, boilers, machinery and mechanical appliances; parts thereof; except for those falling within the following headings or parts of headings for which the rules are set out below: 8403, ex 8404, 8406 to 8409, 8412, 8415, 8418, ex 8419, 8420, 8425 to 8430, ex 8431, 8439, 8441, 8444 to 8447, ex 8448, 8452, 8456 to 8466, 8469 to 8472, 8480, 8484 and 8485	Manufacture: — in which the value of all the materials used does not exceed 40 % of the ex works price of the product, and — where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 10 % of the ex works price of the product
8403 and ex 8404	Central heating boilers, other than those of heading No 8402, and auxiliary plant for central heating boilers	Manufacture in which all the materials used are classified in a heading other than heading No 8403 or 8404. However, materials which are classified in heading No 8403 or 8404 may be used provided their value, taken together, does not exceed 10 % of the ex works price of the product
8406	Steam turbines and other vapour turbines	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
8407	Spark-ignition reciprocating or rotary internal combustion piston engines	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
8408	Compression-ignition internal combustion piston engines (diesel or semi-diesel engines)	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
8409	Parts suitable for use solely or principally with the engines of heading No 8407 or 8408	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
8412	Other engines and motors	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
8415	Air conditioning machines, comprising a motor-driven fan and elements for changing the temperature and humidity, including those machines in which the humidity cannot be seperately regulated	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
8418	Refrigerators, freezers and other refrigerating or freezing equipment, electric or other heat pumps other than air conditioning machines of heading No 8415	Manufacture: — in which the value of all the materials used does not exceed 40 % of the ex works price of the product, and — where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 10 % of the ex works price of the product, and — where the value of all the non-originating materials used does not exceed the value of the originating materials used

(1)	(2)	(3)
ex 8419	Machines for the wood, paper pulp and paper board industries	Manufacture: — in which the value of all the materials used does not exceed 40 % of the ex works price of the product, and — where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 25 % of the ex works price of the product
8420	Calendering or other rolling machines, other than for metals or glass, and cylinders therefor	Manufacture: — in which the value of all the materials used does not exceed 40 % of the ex works price of the product, and — where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 25 % of the ex works price of the product
8425 to 8428	Lifting, handling, loading or unloading machinery	Manufacture: — in which the value of all the materials used does not exceed 40 % of the ex works price of the product, and — where, within the above limit, the materials classified in heading No 8431 are only used up to a value of 10 % of the ex works price of the product
8429	Self-propelled bulldozers, angledozers, graders, levellers, scrapers, mechanical shovels, excavators, shovel loaders, temping machines and road rollers:	
	— Road rollers	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
	— Other	Manufacture: — in which the value of all the materials used does not exceed 40 % of the ex works price of the product, and — where, within the above limit, the value of the materials classified within heading No 8431 are only used up to a value of 10 % of the ex works price of the product
8430	Other moving, grading, levelling, scraping, excavating, temping, compacting, extracting or boring machinery, for earth, minerals or ores; pile-drivers and pile-extractors; snow-ploughs and snow-blowers	Manufacture: — in which the value of all the materials used does not exceed 40 % of the ex works price of the product, and — where, within the above limit, the value of the materials classified within heading No 8431 are only used up to value of 10 % of the ex works price of the product
ex 8431	Parts for road rollers	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product

(1)	(2)	(3)
8439	Machinery for making pulp of fibrous cellulosic material or for making or finishing paper or paperboard	Manufacture: — in which the value of all the materials used does not exceed 40 % of the ex works price of the product, and — where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 25 % of the ex works price of the product
8441	Other machinery for making up paper pulp, paper or paperboard, including cutting machines of all kinds	Manufacture: — in which the value of all the materials used does not exceed 40 % of the ex works price of the product, and — where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 25 % of the ex works price of the product
8444 to 8447	Machines of these headings for use in the textile industry	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
ex 8448	Auxiliary machinery for use with machines for heading Nos 8444 and 8445	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
8452	Sewing machines, other than book sewing machines of heading No 8440; furniture, bases and covers specially designed for sewing machines; sewing machine needles:	
	— Sewing machines (lock stitch only) with heads of a weight not exceeding 16 kg without motor or 17 kg with motor	Manufacture: — in which the value of all the materials used does not exceed 40 % of the ex works price of the product, — where the value of all of the non-originating materials used in assembling the head (without motor) does not exceed the value of the originating materials used, and — the thread tension, crochet and zigzag mechanisms used are already originating
	— Other	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
8456 to 8466	Machine-tools and machines and their parts and accessories of heading Nos 8456 to 8466	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
8469 to 8472	Office machines (for example, typewriters, calculating machines, automatic data-processing machines, duplicating machines, stapling machines)	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
8480	Moulding boxes for metal foundry; mould bases; moulding patterns; moulds for metal (other than ingot moulds), metal carbides, glass, mineral materials, rubber or plastics	Manufacture in which the value of all the materials used does not exceed 50 % of the ex works price of the product
8484	Gaskets and similar joints of metal sheeting combined with other material or of two or more layers of metal; sets or assortments of gaskets and similar joints, dissimilar in composition, put up in pouches, envelopes or similar packings	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product

(1)	(2)	(3)
8485	Machinery parts, not containing electrical connectors, insulators, coils, contacts or other electrical features, not specified or included elsewhere in this chapter	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
ex Chapter 85	Electrical machinery and equipment and parts thereof; sound recorders and reproducers, television image and sound recorders and reproducers and parts and accessories of such articles; except for those falling within the following headings or parts of headings for which the rules are set out below: 8501, 8502, ex 8522, 8523 to 8529, 8535 to 8537, 8542, 8544 to 8548	Manufacture: — in which the value of all the materials used does not exceed 40 % of the ex works price of the product, and — where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 10 % of the ex works price of the product
8501	Electric motors and generators (excluding generating sets)	Manufacture: — in which the value of all the materials used does not exceed 40 % of the ex works price of the product, and — where, within the above limit, the materials classified within heading No 8503 are only used up to a value of 10 % of the ex works price of the product
8502	Electric generating sets and rotary converters	Manufacture: — in which the value of all the materials used does not exceed 40 % of the ex works price of the product, and — where, within the above limit, the materials classified within heading No 8501 or 8503, taken together, are only used up to a value of 5 % of the ex works price of the product
ex 8522	Parts and accessories of cinematographic sound recorders or reproducers for film of 16 mm or more	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
8523	Prepared unrecorded media for sound recording or similar recording of other phenomena, other than products of Chapter 37	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
8524	Records, tapes and other recorded media for sound or other similarly recorded phenomena, including matrices and masters for the production of records, but excluding products of Chapter 37:	
	— Matrices and masters for the production of records	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
	— Other	Manufacture: — in which the value of all the materials used does not exceed 40 % of the ex works price of the product, and — where, within the above limit, the materials classified within heading No 8523 are only used up to a value of 10 % of the ex works price of the product

(1)	(2)	(3)
8525	Transmission apparatus for radio-telephony, radio-telegraphy, radio-broadcasting or television, whether or not incorporating reception apparatus or sound recording or reproducing apparatus; television cameras	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
8526	Radar apparatus, radio navigational aid apparatus and radio remote control apparatus	Manufacture: — in which the value of all the materials used does not exceed 40 % of the ex works price of the product, and — where the value of all the non-originating materials used does not exceed the value of the originating materials used, and
8527	Reception apparatus for radio-telephony, radio-telegraphy or radio-broadcasting, whether or not combined, in the same housing, with sound recording or reproducing apparatus or a clock	Manufacture: — in which the value of all the materials used does not exceed 40 % of the ex works price of the product, and — where the value of all the non-originating materials used does not exceed the value of the originating materials used
8528	Television receivers (including video monitors and video projectors), whether or not combined, in the same housing, with radio-broadcast receivers or sound or video recording or reproducing apparatus	Manufacture: — in which the value of all the materials used does not exceed 40 % of the ex works price of the product, and — where the value of all the non-originating materials used does not exceed the value of the originating materials used
8529	Parts suitable for use solely or principally with the apparatus of heading Nos 8525 to 8528	Manufacture: — in which the value of all the materials used does not exceed 40 % of the ex works price of the product, and — where the value of all the non-originating materials used does not exceed the value of the originating materials used
8535 and 8536	Electrical apparatus for switching or protecting electrical circuits, or for making connections to or in electrical circuits	Manufacture: — in which the value of all the materials used does not exceed 40 % of the ex works price of the product, and — where, within the above limit, the materials classified within heading No 8538 are only used up to a value of 10 % of the ex works price of the product
8537	Boards, panels (including numerical control panels), consoles, desks, cabinets and other bases, equipped with two or more apparatus of heading No 8535 or 8536, for electric control or the distribution of electricity, including those incorporating instruments or apparatus of Chapter 90, other than switching apparatus of heading No 8517	Manufacture: — in which the value of all the materials used does not exceed 40 % of the ex works price of the product, and — where, within the above limit, the materials classified within heading No 8538 are only used up to a value of 10 % of the ex works price of the product
ex 8541	Diodes, transistors and similar semi-conductor devices, except wafers not yet cut into chips	Manufacture: — in which the value of all the materials used does not exceed 40 % of the ex works price of the product, and — where, within the above limit, the materials classified within the same heading as the products are only used up to a value of 10 % of the ex works price of the product

(1)	(2)	(3)
8542	Electronic integrated circuits and microassemblies	Manufacture: — in which the value of all the materials used does not exceed 40 % of the ex works price of the product, and — where, within the above limit, the materials classified within heading No 8541 or 8542, taken together, are only used up to a value of 10 % of the ex works price of the product
8544	Insulated (including enamelled or anodized) wire, cable (including co-axial cable) and other insulated electric conductors, whether or not fitted with connectors; optical fibre cables, made up of individually sheathed fibres, whether or not assembled with electric conductors or fitted with connectors	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
8545	Carbon electrodes, carbon brushes, lamp carbons, battery carbons and other articles of graphite or other carbon, with or without metal, of a kind used for electrical purposes	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
8546	Electrical insulators of any material	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
8547	Insulating fittings for electrical machines, appliances or equipment, being fittings wholly of insulating material apart from any minor components of metal (for example, threaded sockets) incorporated during moulding solely for purposes of assembly other than insulators of heading No 8546; electrical conduit tubing and joints therefor, of base metal lined with insulating material	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
8548	Electrical parts of machinery or apparatus, not specified or included elsewhere in this chapter	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
8601 to 8607	Railway or tramway locomotives, rolling-stock and parts thereof	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
8608	Railway or tramway track fixtures and fittings; mechanical (including electromechanical) signalling, safety or traffic control equipment for railways, tramways, roads, inland waterways, parking facilities, port installations or airfields; parts of the foregoing	Manufacture: — in which the value of all the materials used does not exceed 40 % of the ex works price of the product, and — where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 10 % of the ex works price of the product
8609	Containers (including containers for the transport of fluids) specially designed and equipped for carriage by one or more modes of transport	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
ex Chapter 87	Vehicles other than railway or tramway rolling-stock and parts and accessories thereof; except for those falling within the following headings or parts of headings for which the rules are set out below: 8709 to 8711, ex 8712, 8715 and 8716	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
8709	Works trucks, self-propelled, not fitted with lifting or handling equipment, of the type used in factories, warehouses, dock areas or airports for short distance transport of goods; tractors of the type used on railway station platforms; parts of the foregoing vehicles	Manufacture: — in which the value of all the materials used does not exceed 40 % of the ex works price of the product, and — where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 10 % of the ex works price of the product

(1)	(2)	(3)
8710	Tanks and other armoured fighting vehicles, motorized, whether or not fitted with weapons, and parts of such vehicles	Manufacture: — in which the value of all the materials used does not exceed 40 % of the ex works price of the product, and — where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 10 % of the ex works price of the product
8711	Motorcycles (including mopeds) and cycles fitted with an auxiliary motor, with or without side-cars; side-cars	Manufacture: — in which the value of all the materials used does not exceed 40 % of the ex works price of the product, and — where the value of all the non-originating materials used does not exceed the value of the originating materials used
ex 8712	Bicycles without ball bearings	Manufacture from materials not classified within heading No 8714
8715	Baby carriages and parts thereof	Manufacture: — in which the value of all the materials used does not exceed 40 % of the ex works price of the product, and — where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 10 % of the ex works price of the product
8716	Trailers and semi-trailers; other vehicles, not mechanically propelled; parts thereof	Manufacture: — in which the value of all the materials used does not exceed 40 % of the ex works price of the product, and — where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 10 % of the ex works price of the product
8803	Parts of goods of heading No 8801 or 8802	Manufacture in which the value of all the materials of heading No 8803 used does not exceed 5 % of the ex works price of the product
8804	Parachutes (including dirigible parachutes) and rotochutes; parts thereof and accessories thereto: — Rotochutes — Other	 Manufacture from materials of any heading including other materials of heading No 8804 Manufacture in which the value of all the materials of heading No 8804 used does not exceed 10 % of the ex works price of the product
8805	Aircraft launching gear; deck-arrestor or similar gear; ground flying trainers; parts of the foregoing articles	Manufacture in which the value of all the materials of heading No 8805 used does not exceed 5 % of the ex works price of the product
Chapter 89	Ships, boats and floating structures	Manufacture in which all the materials used are classified within a heading other than that of the product. However, hulls of heading No 8906 may not be used
ex Chapter 90	Optical, photographic, cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus; parts and accessories thereof; except for those falling within the following headings or parts of headings for which the rules are set out below: 9001, 9002, 9004, ex 9006, ex 9014, 9015 to ex 9018 and 9024 to 9033	Manufacture: — in which the value of all the materials used does not exceed 40 % of the ex works price of the product, and — where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 10 % of the ex works price of the product

(1)	(2)	(3)
9001	Optical fibres and optical fibre bundles; optical fibre cables other than those of heading No 8544; sheets and plates of polarizing material; lenses (including contact lenses), prisms, mirrors and other optical elements, of any material, unmounted, other than such elements of glass not optically worked	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
9002	Lenses, prisms, mirrors and other optical elements, of any material, mounted, being parts of or fittings for instruments or apparatus, other than such elements of glass not optically worked	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
9004	Spectacles, goggles and the like, corrective, protective or other	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
ex 9006	Photographic (other than cinematographic) cameras, other than the following: — Cameras of a kind used for preparing printing plates or cylinders — Cameras of a kind used for recording documents on microfilm, microfiche or other microforms — Cameras specially designed for underwater use, for aerial survey or for medical or surgical examination of internal organs; comparison cameras for forensic or criminological purposes — Instant print cameras — Other cameras: — With a through-the-lens viewfinder (single lens reflex (SLR)), for roll film or a width not exceeding 35 mm — Other, for roll film of a width less than 35 mm — Other, for roll film of a width of 35 mm	Manufacture: — in which the value of all the materials used does not exceed 45 % of the ex-works price of the product, and — where, within the above limit, the materials classified in the same heading as the product are only used up to a value of 10 % of the ex-works price of the product
ex 9014	Other navigational instruments and appliances	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
9015	Surveying (including photogrammetrical surveying), hydrographic, oceanographic, hydrological, meteorological or geophysical instruments and appliances, excluding compasses; rangefinders	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
9016	Balances of a sensitivity of 5 cg or better, with or without weights	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
9017	Drawing, marking-out or mathematical calculating instruments (for example, drafting machines, pantographs, protractors, drawing sets, slide rules, disc calculators); instruments for measuring length, for use in the hand (for example, measuring rods and tapes, micrometers, callipers), not specified or included elsewhere in this chapter	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
ex 9018	Dentists' chairs incorporating dental appliances or dentists' spittoons	Manufacture from materials of any heading, including other materials of heading No 9018
9024	Machines and appliances for testing the hardness, strength, compressibility, elasticity or other mechanical properties of materials (for example, metals, wood, textiles, paper, plastics)	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product

(1)	(2)	(3)
9025	Hydrometers and similar floating instruments, thermometers, pyrometers, barometers, hygrometers and psychrometers, recording or not, and any combination of these instruments	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
9026	Instruments and apparatus for measuring or checking the flow, level, pressure or other variables of liquids or gases (for example, flow meters, level gauges, manometers, heat meters), excluding instruments and apparatus of heading No 9014, 9015, 9028 or 9032	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
9027	Instruments and apparatus for physical or chemical analysis (for example, polarimeters, refractometers, spectrometers, gas or smoke analysis apparatus); instruments and apparatus for measuring or checking viscosity, porosity, expansion, surface tension or the like; instruments and apparatus for measuring or checking quantities of heat, sound or light (including exposure meters); microtomes	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
9028	Gas, liquid or electricity supply or production meters, including calibrating meters therefor:	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
9029	Revolution counters, production counters, taximeters, mileometers, pedometers and the like; speed indicators and tachometers, other than those of heading No 9014 or 9015; stroboscopes	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
9030	Oscilloscopes, spectrum analysers and other instruments and apparatus for measuring or checking electrical quantities, excluding meters of heading No 9028; instruments and apparatus for measuring or detecting alpha, beta, gamma, X-ray, cosmic or other ionizing radiations	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
9031	Measuring or checking instruments, appliances and machines, not specified or included elsewhere in this chapter; profile projectors	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
9032	Automatic regulating or controlling instruments and apparatus	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
9033	Parts and accessories (not specified or included elsewhere in this chapter) for machines, appliances, instruments or apparatus of Chapter 90	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
ex Chapter 91	Clocks and watches and parts thereof; except for those falling under the following headings for which the rules are set out below: 9101 to 9105 and 9110 to 9113	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
9101 to 9105	Watches and clocks	Manufacture in which the value of all the materials used does not exceed 45 % of the ex-works price of the product
9110	Complete watch or clock movements, unassembled or partly assembled (movement sets); incomplete watch or clock movements, assembled; rough watch or clock movements	Manufacture: — in which the value of all the materials used does not exceed 40 % of the ex works price of the product, and — where, within the above limit, the materials classified within heading No 9114 are only used up to a value of 10 % of the ex works price of the product

(1)	(2)	(3)
9111	Watch cases and parts thereof	Manufacture: — in which the value of all the materials used does not exceed 40 % of the ex works price of the product, and — where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 10 % of the ex works price of the product
9112	Clock cases and cases of a similar type for other goods of this chapter, and parts thereof	Manufacture: — in which the value of all the materials used does not exceed 40 % of the ex works price of the product, and — where, within the above limit, the materials classified within the same heading as the product are only used up to a value of 10 % of the ex works price of the product
9113	Watch straps, watch bands and watch bracelets, and parts thereof:	
	— Of base metal, whether or not plated, or clad with precious metal	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
	— Other	Manufacture in which the value of all the materials used does not exceed 50 % of the ex works price of the product
Chapter 92	Musical instruments; parts and accessories of such articles	Manufacture in which the value of all the materials used does not exceed 40 % of the ex works price of the product
Chapter 93	Arms and ammunitions; parts and accessories thereof	Manufacture in which the value of all the materials used does not exceed 50 % of the ex works price of the product
ex 9401 and ex 9403	Base metal furniture, incorporating unstuffed cotton cloth of a weight of 300 g/m² or less	Manufacture in which all the materials used are classified within a heading other than that of the product or Manufacture from cotton cloth already made up in a form ready for use of heading No 9401 or 9403, provided: — its value does not exceed 25 % of the ex works price of the product, and — all the other materials used are already originating and are classified within a heading other than heading No 9401 or 9403
9405	Lamps and lighting fittings including searchlights and spotlights and parts thereof, not elsewhere specified or included; illuminated signs, illuminated name-plates and the like, having a permanently fixed light source, and parts thereof not elsewhere specified or included	Manufacture in which the value of all the materials used does not exceed 50 % of the ex works price of the product
9406	Prefabricated buildings	Manufacture in which the value of all the materials used does not exceed 50 % of the ex works price of the product

(1)	(2)	(3)
9503	Other toys; reduced-size ('scale') models and similar recreational models, working or not; puzzles of all kinds	Manufacture in which: — all the materials used are classified within a heading other than that of the product, and — provided the value of all the materials used does not exceed 50 % of the ex works price of the product
ex 9506	Finished golf club heads	Manufacture from roughly shaped blocks
ex 9507	Fishing rods, fish-hooks and other line fishing tackle; fish landing nets, butterfly nets and similar nets; decoy 'birds' (other than those of heading No 9208 or 9707) and similar hunting or shooting requisites:	
	— Mounted fish hooks with artificial bait; mounted fishing lines including casts	Manufacture in which all the materials used are classified in a heading other than that of the product. However, materials classified in the same heading may be used provided their value does not exceed 25 % of the ex works price of the product
ex 9601 and ex 9602	Articles of animal, vegetable or mineral carving materials	Manufacture from 'worked' carving materials of the same heading
ex 9603	Brooms and brushes, (except for besoms and the like and brushes made from marten or squirrel hair), hand-operated mechanical floor sweepers, not motorized, paint pads and rollers, squeegees and mops	Manufacture in which the value of all the materials used does not exceed 50 % of the ex works price of the product
9605	Travel sets for personal toilet, sewing or shoe or clothes cleaning	Each item in the set must satisfy the rule which would apply to it if it were not included in the set. However, non-originating articles may be incorporated, provided their total value does not exceed 15 % of the ex works price of the set
9606	Buttons, press-fasteners, snap-fasteners and press-studs, button moulds and other parts of these articles; button blanks	Manufacture in which: — all the materials used are classified within a heading other than that of the product, and — the value of all the materials used does not exceed 50 % of the ex works price of the product
ex 9608	Ball point pens; felt tipped and other porous-tipped pens and markers; fountain pens, stylograph pens and other pens; duplicating stylos; propelling or sliding pencils; pen-holders, pencil-holders and similar holders; parts (including caps and clips) of the foregoing articles, other than those of heading No 9609:	
	— Fountain pens, stylograph pens and other pens with nibs	Manufacture in which all the materials used are classified in a heading other than that of the product. However, nibs or nib points may be used and the other materials classified within the same heading may also be used provided their value does not exceed 10 % of the ex works price of the product

(1)	(2)	(3)
9612	Typewriter or similar ribbons, inked or otherwise prepared for giving impressions, whether or not on spools or in cartridges; ink-pads, whether or not inked, with or without boxes	Manufacture in which — all the materials used are classified within a heading other than that of the product, and — the value of all the materials used does not exceed 50 % of the ex works price of the product
ex 9614	Smoking pipes or pipe bowls	Manufacture from roughly shaped blocks

Annex 3 to Annex II

The term 'ACP States' in this Annex refers to the following States which are signatories to the fourth ACP-EEC Convention signed in Lomé on 15 December 1989. (This shall be without prejudice to any amendments to the list.)

Angola
Antigua and Barbuda
Bahamas
Barbados
Belize
Benin
Botswana
Burkina Faso
Burundi
Cameroon
Cape Verde
Central African Republic
Chad
Comoros
Congo
Côte d'Ivoire
Djibouti
Dominica
Dominican Republic
Equatorial Guinea
Ethiopia
Fiji
Gabon
Gambia
Ghana
Grenada
Guinea
Guinea-Bissau
Guyana
Haiti
Jamaica
Kenya
Kiribati
Lesotho
Liberia
Madagascar
Malawi
Mali
Mauritania
Mauritius
Mozambique
Niger
Nigeria
Papua New Guinea
Rwanda
Saint Kitts and Nevis
Saint Lucia
Saint Vincent and the Grenadines
São Tomé and Principe
Senegal
Seychelles
Sierra Leone
Solomon Islands
Somalia
Sudan
Suriname
Swaziland
Tanzania
Togo
Tonga
Trinidad and Tobago
Tuvalu
Uganda
Vanuatu
Western Samoa
Zaïre
Zambia
Zimbabwe

Annex 4 to Annex II

FORM FOR MOVEMENT CERTIFICATES

1. Movement certificates EUR. 1 shall be made out on the form of which a specimen appears in this Annex. This form shall be printed in one or more of the official languages of the Community. Certificates shall be made out in one of these languages and in accordance with the provisions of the domestic law of the exporting State or OCT; if they are handwritten, they shall be completed in ink and in capital letters.

2. Each certificate shall measure 210 × 297 mm, a tolerance of up to plus 8 mm or minus 5 mm in the length may be allowed. The paper used must be white, sized for writing, not containing mechanical pulp and weighing not less than 65 g/m². It shall have a printed green guilloche pattern background making any falsification by mechanical or chemical means apparent to the eye.

3. The exporting States and the competent authorities of the exporting OCT may reserve the right to print the certificates themselves or may have them printed by approved printers. In the latter case each certificate must include a reference to such approval. Each certificate must bear the name and address of the printer or a mark by which the printer can be identified. It shall also bear a serial number, either printed or not, by which it can be identified.

4. Forms of the kind given in Annex 5 to Annex II to Decision 86/283/EEC may continue to be used until stocks are exhausted or until 31 December 1992 at the latest.

MOVEMENT CERTIFICATE

1. Exporter (Name, full address, country)

EUR. 1 No **A** 000.000

See notes overleaf before completing this form

2. Certificate used in preferential trade between

.....

and

.....

(Insert appropriate countries, groups of countries or territories)

3. Consignee (Name, full address, country) (Optional)

4. Country, group of countries or territory in which the products are considered as originating	**5. Country, group of countries or territory of destination**

6. Transport details (Optional)

7. Remarks

8. Item number; Marks and numbers; Number and kind of packages (1); Description of goods;	**9. Gross mass (kg) or other measure (litres, m³, etc.)**	**10. Invoices** (Optional)

11. CUSTOMS ENDORSEMENT

Declaration certified

Export document (2)

Form ..... No .....

Customs office .....

Issuing country or territory .....

.....

Date .....

Stamp

.....

(Signature)

12. DECLARATION BY THE EXPORTER

I, the undersigned, declare that the goods described above meet the conditons required for the issue of this certificate.

Place and date .....

.....

(Signature)

(1) If goods are not packed, indicate number of articles of state 'in bulk' as appropriate.

(2) Complete only where the regulations of the exporting country or territory require.

13. REQUEST FOR VERIFICATION, to:	14. RESULT OF VERIFICATION
Verification of the authenticity and accuracy of this certificate is requested. ..... (Place and date) Stamp ..... (Signature)	Verification carried out shows that this certificate (') ☐ was issued by the customs office indicated and that the information contained therein is accurate. ☐ does not meet the requirements as to authenticity and accuracy (see remarks appended). ..... (Place and date) Stamp ..... (Signature) (') Insert X in the appropriate box.

NOTES

1. Certificates must not contain erasures or words written over one another. Any alterations must be made by deleting the incorrect particulars and adding any necessary corrections. Any such alteration must be initialled by the person who completed the certificate and endorsed by the customs authorities of the issuing country or territory.
2. No spaces must be left between the items entered on the certificate and each item must be preceded by an item number. A horizontal line must be drawn immediately below the last item. Any unused space must be struck through in such a manner as to make any later additions impossible.
3. Goods must be described in accordance with commercial practice and with sufficient detail to enable them to be identified.

APPLICATION FOR A MOVEMENT CERTIFICATE

1. Exporter (Name, full address, country)	**EUR. 1** No **A** 000.000 **See notes overleaf before completing this form**
3. Consignee (Name, full address, country) (Optional)	**2. Application for a certificate to be used in preferential trade between** ..... **and** ..... (Insert appropriate countries, groups of countries or territories)
	4. Country, group of countries or territory in which the products are considered as originating / **5. Country, group of countries or territory of destination**
6. Transport details (Optional)	**7. Remarks**

8. Item number; Marks and numbers; Number and kind of packages (1); Description of goods	**9. Gross mass (kg) or other measure (litres, m³, etc.)**	**10. Invoices** (Optional)

(1) If goods are not packed, indicate number of articles or state 'in bulk' as appropriate.

DECLARATION BY THE EXPORTER

I, the undersigned, exporter of the goods described overleaf,

DECLARE that the goods meet the conditions required for the issue of the attached certificate;

SPECIFY as follows the circumstances which have enabled these goods to meet the above conditions:

.....

.....

.....

.....

SUBMIT the following supporting documents (1):

.....

.....

.....

.....

UNDERTAKE to submit, at the request of the appropriate authorities, any supporting evidence which these authorities may require for the purpose of issuing the attached certificate, and undertake, if required, to agree to any inspection of my accounts and to any check on the processes of manufacture of the above goods, carried out by the said authorities;

REQUEST the issue of the attached certificate for these goods.

.....

(Place and date)

.....

(Signature)

---

(1) For example: import documents, movement certificates, invoices, manufacturer's declarations, etc., referring to the products used in manufacture or to the goods re-exported in the same state.

Annex 5 to Annex II

FORM EUR. 2

1. Form EUR. 2, a specimen of which appears in this Annex, shall be completed by the exporter. It shall be made out in one of the official languages of the Community and in accordance with the provisions of the domestic law of the exporting OCT. If it is handwritten it must be completed in ink in capital letters.

2. Form EUR. 2 shall consist of a single sheet measuring 210 × 148 mm. The paper used shall be white, sized for writing, not containing mechanical pulp and weighing not less than 65 g/m².

3. The States and the responsible authorities of the exporting OCT may reserve the right to print the forms themselves or may have them printed by printers they have approved. In the latter case each form must include a reference to such approval. In addition, each form shall bear the distinctive sign attributed to the approved printer and a serial number, either printed or not, by which it can be identified.

4. Forms of the kind given in Annex 6 to Annex II to Decision 86/283/EEC may continue to be used until stocks are exhausted or until 31 December 1992 at the latest.

Before completing this form read carefully the instructions on the other side.

FORM EUR. 2 No

1 **Form used in preferential trade**
between (1) ..... and .....

2 **Exporter** (Name, full address, country)

3 **Declaration by exporter**

I, the undersigned, exporter of the goods described below, declare that the goods comply with the requirements for the completion of this form and that the goods have obtained the status of originating products within the provisions governing preferential trade shown in box 1.

4 **Consignee** (Name, full address, country)

5 **Place and date**

6 **Signature of exporter**

7 **Remarks** (2)

8 **Country of origin** (3)

9 **Country of destination** (4)

10 **Gross mass (kg)**

11 **Marks; Numbers of consignment; Description of goods**

12 **Authority in the exporting country** (4) **responsible for verification of the declaration by the exporter**

(1) Insert the countries, groups of countries or territories concerned. (2) Refer to any verification already carried out by the appropriate authorities. (3) The term 'country of origin' means country, group of countries or territory where the goods are considered to be originating. (4) The term 'country' means country, group of countries or territory of destination.

(VERSO)

13 **Request for verification**	14 **Result of verification**
The verification of the declaration by the exporter on the front of this form is requested (*) ....., ... 19..... (Place and date) Stamp ..... (Signature)	Verification carried out shows that (1) ☐ the statements and particulars given in this form are accurate. ☐ this form does not meet the requirements as to accuracy and authenticity (see remarks appended) ....., ... 19..... (Place and date) Stamp ..... (Signature) (1) Insert X in the appropriate box.

(*) Subsequent verifications of forms EUR. 2 shall be carried out at random or whenever the customs authorities of the importing State have reasonable doubt as to the accuracy of the information regarding the authenticity of the forms and the true origin of the goods in question.

Instructions for the completion of form EUR. 2

1. A form EUR. 2 may be made out only for goods which in the exporting country fulfil the conditions specified by the provisions governing the trade referred to in box 1. These provisions must be studied carefully before the form is completed.
2. In the case of a consignment by parcel post the exporter attaches the form to the dispatch note. In the case of a consignment by letter post he encloses the form in a package. The reference 'EUR. 2' and the serial number of the form should be stated on the customs green label declaration C1 or on the customs declaration C2/CP3, as appropriate.
3. These instructions do not exempt the exporter from complying with any other formalities required by customs or postal regulations.
4. An exporter who uses this form is obliged to submit to the appropriate authorities any supporting evidence which they may require and to agree to any inspection by them of his accounts and of the processes of manufacture of the goods described in box 11 of this form.

Annex 6 A to Annex II

DECLARATION FOR PRODUCTS HAVING PREFERENTIAL ORIGIN STATUS

I, the undersigned, declare that the goods listed on this invoice ..... (1)

were produced in ..... (2)
and satisfy the rules of origin governing preferential trade between the OCT and the European Community.

I undertake to make available to the customs authorities, if required, evidence in support of this declaration.

..... (3) ..... (4)

..... (5)

Note:
The text inside the box, suitably completed in conformity with the footnotes below, constitutes a suppliers' declaration. The footnotes do not have to be reproduced.

(1) — If only some of the goods listed on the invoice are concerned they should be clearly indicated or marked and this marking entered on the declaration as follows: '..... listed on this invoice and marked ..... were produced .....'.
— If a document other than the invoice or an annex to the invoice is used (see Article 3), the name of the document concerned shall be mentioned instead of the word 'invoice'.

(2) The Community, Member State, ACP State or OCT. Where an ACP State or OCT is given, a reference must also be made to the Community customs office holding any EUR. 1(s) or EUR. 2(s) concerned, giving the No of the certificate(s) or form(s) concerned and, if possible, the relevant customs entry No involved.

(3) Place and date.

(4) Name and function in company.

(5) Signature.

Annex 6 B to Annex II

DECLARATION FOR PRODUCTS NOT HAVING PREFERENTIAL ORIGIN STATUS

I, the undersigned, declare that the goods listed on this invoice ..... (1) were produced in ..... (2) and incorporate the following components or materials which do not have Community origin for preferential trade:

..... (3)	..... (4)	..... (5)
.....	.....	.....
.....	.....	.....

..... (6)

I undertake to make available to the customs authorities, if required, evidence in support of this declaration.

..... (7) ..... (8)

..... (9)

Note:

The text inside the box, suitably completed in conformity with the footnotes below, constitutes a suppliers' declaration. The footnotes do not have to be reproduced.

---

(1) — If only some of the goods listed on the invoice are concerned they should be clearly indicated or marked and this marking entered on the declaration as follows: '..... listed on this invoice and marked ..... were produced .....'.

— If a document other than the invoice or an annex to the invoice is used (see Article 3), the name of the document concerned shall be mentioned instead of the word 'invoice'.

(2) The Community, Member State, ACP State or OCT.

(3) Description is to be given in all cases. The description must be adequate and should be sufficiently detailed to allow the tariff classification of the goods concerned to be determined.

(4) Customs values to be given only if required.

(5) Country of origin to be given only if required. The origin to be given must be a preferential origin, all other origins to be given as 'third country'.

(6) 'and have undergone the following processing in (the Community) (Member State) (ACP State) (OCT) .....,' to be added with a description of the processing carried out if this information is required.

(7) Place and date.

(8) Name and function in company.

(9) Signature.

Annex 7 to Annex II

INFORMATION CERTIFICATE

1. The form of information certificate given in this Annex shall be used and be printed in one or more of the official languages of the Community and in accordance with the provisions of the domestic law of the exporting State. Information certificates shall be completed in one of those languages; if they are handwritten, they shall be completed in ink in capital letters. The shall bear a serial number, whether or not printed, by which they can be identified.

2. The information certificate shall measure 210 × 297 mm, a tolerance of up to plus 8 mm or minus 5 mm in the length may be allowed. The paper must be white, sized for writing, not containing mechanical pulp and weighing not less than 65 g/m².

3. The national administrations may reserve the right to print the forms themselves or may have them printed by printers approved by them. In the latter case, each form must include a reference to such approval. The forms shall bear the name and address of the printer or a mark by which the printer can be identified.

EUROPEAN COMMUNITIES

1. Supplier (1)

2. Consignee (1)

INFORMATION CERTIFICATE

to facilitate the issue of a

MOVEMENT CERTIFICATE

for preferential trade between the

EUROPEAN ECONOMIC COMMUNITY and THE OVERSEAS COUNTRIES AND TERRITORIES (OCT)

3. Processor (1)

4. State in which the working or processing has been carried out

6. Customs office of importation (2)

5. For official use

7. Import document (2)

Form ..... No .....

Series .....

Date | | | |

GOODS SENT TO THE MEMBER STATES OF DESTINATION

8. Marks, numbers, quantity and kind of package	9. Tariff heading number and description of goods	10. Quantity (3)
		11. Value (4)

IMPORTED GOODS USED

12. Tariff heading number and description	13. Country of origin	14. Quantity (3)	15. Value (3) (4)

16. Nature of the working or processing carried out

17. Remarks

18. **CUSTOMS ENDORSEMENT**

Declaration certified

Document: .....

Form ..... No .....

Customs office .....

Date | | | |

Official stamp

..... (Signature)

19. **DECLARATION BY THE SUPPLIER**

I, the undersigned, declare that the information on this certificate is accurate

..... (Place) | | | | (date)

..... (Signature)

See footnotes on verso.

REQUEST FOR VERIFICATION	RESULT OF VERIFICATION
The undersigned customs official requests verification of the authenticity and accuracy of this information certificate	Verification carried out by the undersigned customs official shows that this information certificate: (a) was issued by the customs office indicated and that the information contained therein is accurate (*) (b) does not meet the requirements as to authenticity and accuracy (see notes appended) (*)
..... (Place and date)	..... (Place and date)
Official stamp	Official stamp
..... (Official's signature)	..... (Official's signature)
	(*) Delete where not applicable.

CROSS REFERENCES

(1) Name of individual or business and full address.

(2) Optional information.

(3) kg, hl, m^3 or other measure.

(4) Packaging shall be considered as forming a whole with the goods contained therein. However, this provision shall not apply to packaging which is not of the normal type for the article packed, and which has a lasting utility value of its own, apart from its function as packaging.

(5) The value must be indicated in accordance with the provisions on rules of origin.

Annex 8 to Annex II

LIST OF PRODUCTS REFERRED TO IN ARTICLE 33 WHICH ARE TEMPORARILY EXCLUDED FROM THE SCOPE OF THIS ANNEX

HS heading No	Description of product
ex 2707	Oils in which the weight of the aromatic constituents exceeds that of the non-aromatic constituents, being oils similar to mineral oils obtained by distillation of high temperature coal tar, of which more than 65 % by volume distills at a temperature of up to 250 °C (including mixtures of petroleum spirit and benzole), for use as power of heating fuels
2709 to 2715	Mineral oils and products of their distillation; bituminous substances; mineral waxes
ex 2901	Acylic hydrocarbon for use as power or heating fuels
ex 2902	Cyclanes and cyclenes (other than azulenes), benzene, toluene, xylenes, for use as power or heating fuels
ex 3403	Lubricating preparations containing petroleum oils or oils obtained from bituminous minerals, provided they represent less than 70 % by weight
ex 3404	Artificial waxes and prepared waxes with a basis of paraffin, petroleum waxes, waxes obtained from bituminous minerals, slack wax or scale wax
ex 3811	Prepared additives for lubricating oil, containing petroleum oils or oils obtained from bituminous minerals

FORM FOR APPLICATION FOR A DEROGATION *Annex 9 to Annex II*

1. Commercial description of the finished product: 1.1. Customs classification (HS-code)	2. Anticipated annual quantity of exports to the Community (weight, No of pieces, metres or other unit)
3. Commercial description on third country materials Customs classification (HS-code)	4. Anticipated annual quantity of third country materials to be used
5. Value of third country materials	6. Value of finished product
7. Origin of third country materials	8. Reasons, why the rule of origin for the finished product cannot be fulfilled
9. Commercial description of materials originating in the ACP States, EEC or OCT to be used	10. Anticipated annual quantity of ACP, EEC or OCT materials to be used
11. Value of ACP, EEC or OCT materials	12. Working or processing carried out in the EEC or OCT or third country materials without obtaining origin
13. Duration requested for the derogation: from ..... to	
14. Detailed description of working and processing in the ACP States	15. Capital structure of the firm concerned
	16. Amount of investments made/foreseen
	17. Staff employed/expected
18. Value added by the working or processing in the ACP States: 18.1. Labour 18.2. Overheads 18.3. Others	20. Possible developments to overcome the need for a derogation
19. Other possible sources of supply for materials	21. Observations

NOTES

1. If the boxes in the form are not sufficient to contain all relevant information, additional pages may be attached to the form. In this case, the mention 'see Annex' shall be entered in the box concerned.

2. If possible, samples or other illustrative material (pictures, designs, catalogues, etc.) of the final product and of the materials should accompany the form.

3. A form shall be completed for each product covered by the request.

   Boxes 3, 4, 5, 7: 'third country' meaning any country which is not an ACP or Community State or OCT.

   Box 12: If third country materials have been worked or processed in the Community or in the OCT without obtaining origin, before being further processed in the ACP State requesting the derogation, indicate the working or processing carried out in the Community or OCT.

   Box 13: The dates to be indicated are the initial and final one of the period in which EUR. 1 certificates may be issued under the derogation.

   Box 18: Indicate either the percentage of added value in respect of the ex-works price of the product or the monetary amount of added value for unit of product.

   Box 19: If alternative sources of materials exist, indicate here what they are and, if possible, the reasons of cost or other why they are not used.

   Box 20: Indicate possible further investments or suppliers differentiation which make the derogation necessary for only a limited period of time.

ANNEX III

concerning the conditions for entry into the Community of products not originating in the OCT, but which are in free circulation in the OCT, and methods of administrative cooperation

Article 1

Direct Transport

1. The arrangements provided for under the provisions of Article 101 (2) of the Decision apply only to products or materials which are transported between the territory of the OCT and the Community without entering any other territory. However, goods constituting one single consignment may be transported through territory other than that of the OCT, with, should the occasion arise, transhipment or temporary warehousing in such territory, provided that the goods have remained under the surveillance of the customs authorities in the country of transit or of warehousing and that they have not undergone operations other than unloading, reloading or any operation designed to preserve them in good condition.

2. Evidence that the conditions referred to in paragraph 1 have been fulfilled shall be supplied to the responsible customs authorities by the production of:

(a) a through bill of lading issued in the exporting beneficiary country covering the passage through the country of transit; or

(b) a certificate issued by the customs authorities of the country of transit:

— giving an exact description of the goods,

— stating the dates of unloading and reloading of the goods or of their embarkation or disembarkation, indentifying the ships used,

— certifying the conditions under which the goods remained in the transit country;

(c) or, failing these, any substantiating documents.

Article 2

Export Certificate EXP

1. Evidence of compliance with the provisions of Article 101 (2) of the Decision shall be given by an export certificate EXP, a specimen of which appears in Annex 1 to this Annex.

2. An export certificate EXP may be issued only where it can serve as the documentary evidence required for the purpose of implementing the Decision.

3. An export certificate EXP shall be issued only on application having been made in writing by the exporter or, on his responsibility, by his authorized representative. Such application shall be made on a form, a specimen of which appears in Annex 1, which shall be completed in accordance with this Annex.

4. Applications for export certificates EXP must be preserved for at least three years by customs authorities of the exporting country.

5. The exporter or his representative shall submit with his request any appropriate supporting document proving that the products to be exported are such as to qualify for the issue of an export certificate EXP.

He shall undertake to submit, at the request of the relevant authorities, any supplementary evidence they may require for the purpose of establishing the correctness of the application and shall undertake to agree to any inspection of his accounts and to any check on the processes of the release for free circulation of the above goods.

Exporters are required to keep the supporting documents referred to in this paragraph for at least two years.

6. The export certificate EXP shall be issued by the customs authorities of the exporting country or territory, if the goods can be considered as having been in free circulation within the meaning of Article 101 (2) of the Decision.

7. For the purpose of verifying whether the conditions stated in paragraph 6 have been met, the customs authorities shall have the right to call for any documentary evidence or to carry out any check which they consider appropriate.

8. It shall be the responsibility of the customs authorities of the exporting State to ensure that the forms referred to in paragraph 1 are duly completed. In particular, they shall check whether the space reserved for the description of the products has been completed in such a manner as to exclude all possibility of fraudulent additions. To this end, the description of the products and all other information required in this context must be indicated without leaving any blank lines. Where the space is not completely filled a horizontal line must be drawn below the last line of the description, the empty space being crossed through.

9. The date of issue of the movement certificate must be indicated in the part of the export certificate reserved for the customs authorities.

10. An export certificate EXP shall be issued by the customs authorities of the exporting country or territory when the products to which it relates are exported. It shall be made available to the exporter as soon as actual export has been effected or ensured.

Article 3

Issue of a duplicate export certificate EXP

In the event of the theft, loss or destruction of an export certificate EXP, the exporter may apply to the customs authorities which issued it for a duplicate made out on the basis of the export documents in their possession.

The duplicate issued in this way must be endorsed with one of the following words: 'DUPLICADO', 'DUPLIKAT', 'DUPLIKAT', 'ΑΝΤΙΓΡΑΦΟ', 'DUPLICATE', 'DUPLICATA', 'DUPLICATO', 'DUPLICAAT', 'SEGUNDA VIA'.

Article 4

Validity of export certificates EXP

1. An export certificate EXP must be submitted, within 10 months of the date of issue by the customs authorities of the exporting country or territory, to the customs authorities of the importing State where the products are entered.

2. An export certificate EXP which is submitted to the customs authorities of the importing State after the final date of presentation specified in paragraph 1 may be accepted for the purpose of applying the arrangements, where the failure to submit the certificate by the final date set is due to reasons of *force majeure* or exceptional circumstances.

3. In other cases of belated presentation, the customs authorities of the importing State may accept the certificates where the products have been submitted to them before the said final date.

Article 5

Submission of certificates

Export certificates EXP shall be submitted to customs authorities in the importing State, in accordance with the procedures laid down by that State. The said authorities may require a translation of a certificate. They may also require the import declaration to be accompanied by a statement from the importer to the effect that the products meet the conditions required for the implementation of the Decision.

METHODS OF ADMINISTRATIVE COOPERATION

Article 6

Communication of stamps

Specimens of the stamps used together with the addresses of the customs authorities competent to issue export certificates EXP and carry out the subsequent verification of export certificates EXP must be sent to the Commission if they differ from those included in Article 25 of Annex II.

Export certificates EXP shall be accepted for the purpose of applying the arrangements provided for from the date the information is received by the Commission.

The Commission shall send this information to the customs authorities of the Member States.

Export certificates EXP presented to the customs authorities of the importing State before this date shall be accepted in conformity with the Community legislation.

Article 7

Verification of export certificates EXP

1. Subsequent verification of export certificates EXP shall be carried out at random or whenever the customs authorities of the importing State have reasonable doubts as to the authenticity of the document or the accuracy of the information regarding the true origin of the products in question.

2. In order to ensure the proper application of this Annex, the Member States and the OCT shall assist each other, through their respective customs administrations, in checking the authenticity of export certificates EXP and the accuracy of the information which appears on the certificates.

3. If the customs authorities of the importing State decide to suspend execution of the provisions of the Decision while awaiting the results of the verification, they shall offer to release the products to the importer subject to any precautionary measures judged necessary.

4. For the purpose of implementing paragraph 1, the customs authorities of the importing country or territory shall return the export certificate EXP, or a photocopy thereof, to the customs authorities of the exporting country or territory, giving, where appropriate, the reasons of form or substance for an inquiry. The relevant commercial documents, or a copy thereof, shall be attached to the certificate EXP and the customs auth-

orities shall forward any information that has been obtained suggesting that the particulars given on the said certificate are inaccurate.

5. The customs authorities of the importing State shall be informed of the results of the verification within six months. These results must be such as to make it possible to determine whether the export certificate EXP applied to the products actually exported, and whether these products can, in fact, qualify for the application of the arrangements provided for.

6. Where the verification procedure or any other available information appears to indicate that the provisions of this Annex are being contravened, the country or territory on its own initiative or at the request of the Community shall carry out appropriate enquiries or arrange for such enquiries to be carried out with due urgency to identify and prevent such contraventions. The Commission may participate in these enquiries.

Where the verification procedure or any other available information appears to indicate that the provisions of this Annex are being contravened, the products would be accepted as products in free circulation under the Decision only after completion of such aspects of administrative cooperation set down in the Annex which may have been activated.

7. Disputes which cannot be settled between the customs authorities of the importing State and those of the exporting country or territory, or those which raise a question as to the interpretation of this Annex, shall be submitted to the Committee on Customs Legislation.

8. In all cases, the settlement of disputes between the importer and the customs authorities of the importing State shall be under the legislation of the said State.

Article 8

Penalties

Penalties shall be imposed on any person who, in order to enable products to be accepted as eligible for the arrangements provided for, draws up, or causes to be drawn up, a document which contains incorrect particulars for the purpose of obtaining an export certificate EXP.

Article 9

Free zones

The Member States and the responsible authorities of the OCT shall take all necessary steps to ensure that goods traded under cover of an export certificate EXP and which remain, during their transport, in a free zone situated in their territory, do not undergo handling other than operations designed to preserve them in good condition.

Article 10

Annexes

The Annexes to this Annex shall form an integral part of the Annex.

Annex I to Annex III

FORM FOR EXPORT CERTIFICATES

1. Export certificates EXP shall be made out on the form of which a specimen appears in this Annex. This form shall be printed in one or more of the official languages of the Community. Certificates shall be made out in one of these languages and in accordance with the provisions of the domestic law of the exporting OCT; if they are handwritten, they shall be completed in ink and in capital letters.

2. Each certificate shall measure 210 × 297 mm, a tolerance of up to plus 8 mm or minus 5 mm in the length may be allowed. The paper used must be white, sized for writing, not containing mechanical pulp and weighing not less than 65 g/m². It shall have a printed green guilloche pattern background making any falsification by mechanical or chemical means apparent to the eye.

3. The competent authorities of the exporting OCT may reserve the right to print the certificates themselves or may have them printed by approved printers. In the latter case, each certificate must include a reference to such approval. Each certificate must bear the name and address of the printer or a mark by which the printer can be identified. It shall also bear a serial number, either printed or not, by which it can be identified.

EXPORT CERTIFICATE

(1) If goods are not packed, indicate number of articles of state 'in bulk' as appropriate.

1. Exporter (Name, full address, country)

EXP **No A**

See notes overleaf before completing this form

2. Certificate used in preferential trade between

.....

and

.....

(Insert appropriate countries, groups of countries or territories)

3. Consignee (Name, full address, country) (Optional)

4. Country, group of countries or territory in which the products are considered as originating

5. Country, group of countries or territory of destination

6. Transport details (Optional)

7. Remarks

8. Item number; Marks and numbers; Number and kind of packages (1); Description of goods; Rate of customs duties or of taxes having equivalent effect levied on free release in the exporting OCT; Information relevant to customs declaration (No, date, venue)

9. Gross mass (kg) or other measure (litres, m³, etc.)

10. Invoices (Optional)

11. CUSTOMS ENDORSEMENT

Declaration certified

It is hereby certified that the abovementioned products have not been processed or worked after being released for free circulation.

Customs office .....

Issuing country or territory .....

.....

Date ..... Stamp

.....

(Signature)

12. DECLARATION BY THE EXPORTER

I, the undersigned, declare that the goods described above meet the conditions required for the issue of this certificate.

Place and date .....

.....

(Signature)

13. REQUEST FOR VERIFICATION, to:	14. RESULT OF VERIFICATION
	Verification carried out shows that this certificate (1) ☐ was issued by the customs office indicated and that the information contained therein is accurate. ☐ does not meet the requirements as to authenticity and accuracy (see remarks appended).
Verification of the authenticity and accuracy of this certificate is requested. ..... (Place and date) Stamp ..... (Signature)	..... (Place and date) Stamp ..... (Signature) (1) Insert X in the appropriate box.

NOTES

1. Certificates must not contain erasures or words written over one another. Any alterations must be made by deleting the incorrect particulars and adding any necessary corrections. Any such alteration must be initialled by the person who completed the certificate and endorsed by the customs authorities of the issuing country or territory.
2. No spaces must be left between the items entered on the certificate and each item must be preceded by an item number. A horizontal line must be drawn immediately below the last item. Any unused space must be struck through in such a manner as to make any later additions impossible.
3. Goods must be described in accordance with commercial practice and with sufficient detail to enable them to be identified.

APPLICATION FOR AN EXPORT CERTIFICATE

1. Exporter (Name, full address, country)	**EXP** No **A** **See notes overleaf before completing this form**
3. Consignee (Name, full address, country) (Optional)	**2. Application for a certificate to be used in preferential trade between** ..... **and** ..... (Insert appropriate countries, groups of countries or territories)
	4. Country, group of countries or territory in which the products are considered as originating / **5. Country, group of countries or territory of destination**
6. Transport details (Optional)	**7. Remarks**

8. Item number; Marks and numbers; Number and kind of packages (1); Description of goods; Rate of customs duties or of taxes having equivalent effect levied on free release in the exporting OCT; Information relevant to customs declaration (No, date, venue)	**9. Gross mass (kg) or other measure (litres, m³, etc.)**	**10. Invoices** (Optional)

(1) If goods are not packed, indicate number of articles or state 'in bulk' as appropriate.

DECLARATION BY THE EXPORTER

I, the undersigned, exporter of the goods described overleaf,

DECLARE that the goods meet the conditions required for the issue of the attached certificate;

SPECIFY as follows the circumstances which have enabled these goods to meet the above conditions:

.....

.....

.....

.....

SUBMIT the following supporting documents (1):

.....

.....

.....

.....

UNDERTAKE to submit, at the request of the appropriate authorities, any supporting evidence which these authorities may require for the purpose of issuing the attached certificate, and undertake, if required, to agree to any inspection of my accounts and to any check on the processes of manufacture of the above goods, carried out by the said authorities;

REQUEST the issue of the attached certificate for these goods.

.....

(Place and date)

.....

(Signature)

---

(1) For example: import documents, movement certificates, invoices, manufacturer's declarations, etc., referring to the products used in manufacture or to the goods re-exported in the same state.

ANNEX IV

Safeguard Measures

The provisions of Article 109 of the Decision shall be implemented as follows.

Article 1

1. If a Member State asks the Commission for application of safeguard measures in accordance with Article 109 of the Decision and the Commission decides not to apply them, the Commission shall inform the Council, the Member States and the relevant authorities of the OCT accordingly within three working days from the date of receipt of the Member State's request.

Member States shall provide the Commission with any information necessary to justify their requests for application of safeguard measures.

Any Member State may refer the Commission's decision to the Council within 10 working days of its notification.

The Council, acting by a qualified majority, may adopt a different decision within 20 working days.

2. Where the Commission, at the request of a Member State or on its own initiative, decides that the safeguard measures provided for in Article 109 of the Decision should be applied:

— it shall inform the Member States immediately or, if it is replying to a request by a Member State, within three working days from the date of receipt of that request;

— it shall consult a Committee made up of representatives of the Member States and chaired by a Commission representative.

3. Following consultation with the Committee referred to in paragraph 2, the Commission may take appropriate measures to implement Article 109 of the Decision.

4. The Council, the Member States and the relevant authorities of the OCT shall be notified immediately of the decision referred to in paragraph 3.

It shall apply with immediate effect.

5. Any Member State may refer the Commission's decision referred to in paragraph 3 to the Council within 10 working days of receiving notification of the decision.

6. Should the Commission fail to adopt a decision within 21 working days, any Member State that has brought the matter before the Commission in accordance with paragraph 2 may refer it to the Council.

7. In the cases referred to in paragraphs 5 and 6, the Council, acting by a qualified majority, may adopt a different decision within 20 working days.

Article 2

1. The Commission may take, or authorize a Member State to apply, immediate safeguard measures.

2. If the Commission receives a request from a Member State, it shall take a decision thereon within three working days of receiving the request.

It shall notify the Council, the Member States and the relevant authorities of the OCT of its decision.

3. Any Member State may refer the Commission's decision to the Council in accordance with the procedure set out in Article 1 (5).

The procedure provided for in Article 1 (7) shall apply.

Should the Commission fail to adopt a decision within the period indicated in paragraph 2, any Member State that has brought the matter before the Commission may refer it to the Council in accordance with the procedure laid down in the first and second subparagraphs.

Article 3

This Annex shall not preclude application of the Regulations establishing a common organization of agricultural markets, or Community or national administrative provisions derived therefrom or the specific rules adopted under Article 235 of the Treaty for processed agricultural products.

ANNEX V

On rum

Article 1

Until the entry into force of a common organization of the market in spirits, products of CN codes 2208 40 10, 2208 40 90, 2208 90 11 and 2208 90 19 originating in the OCT shall be imported exempt from duty in accordance with the provisions below.

Article 2

(a) By derogation from Article 101 (1) of this Decision, the Council, acting by a qualified majority on a proposal from the Commission, shall each year, until 31 December 1995, fix the quantities which may be imported exempt from customs duties.

These quantities shall be established as follows:

— until 31 December 1993, on the basis of the largest annual quantities imported from the OCT into the Community in the last three years for which statistics are available, increased, in the period until 31 December 1992, by an annual growth rate of 27 %.

The Council, acting unanimously on a proposal from the Commission, may each year increase or reduce the growth rate laid down above in the light of Community consumption and production and developments in trade flows within the Community and between the Community, the OCT and the ACP States.

The volume of the annual quantity shall in no case be less than 15 000 hl of pure alcohol.

— For 1994 and 1995, the volume of the total quota shall in each case be equal to that of the previous year increased by 1 740 hl of pure alcohol.

(b) For the arrangements applicable from 1996, the Council, acting by a qualified majority on a proposal from the Commission, shall establish, before 1 February 1995, on the basis of a report that the Commission will send to the Council before 1 February 1994, the arrangements for the projected abolition of the Community tariff quota, taking into account the situation and prospects on the Community rum market and of the exports of the OCT and ACP States.

Article 3

The products referred to in Article 1 shall be placed under Community surveillance according to detailed arrangements to be laid down by the Council when it adopts the measures provided for in Article 2 (a).

Article 4

At the request of the relevant authorities of the OCT and pursuant to the provisions of Part 3, Title I, Chapter 2 of the Decision, the Community shall assist the OCT in promoting and expanding their sales of rum on traditional and non-traditional markets of the Community.

ANNEX VI

Movements of hazardous waste and radioactive waste

Keenly aware of the specific risks attaching to radioactive waste, the Member States and the relevant authorities of the OCT will refrain from any practice of discharging such waste which would encroach upon the sovereignty of States or threaten the environment or public health in other countries. They attach the greatest importance to developing international cooperation to protect the environment and public health against such risks. They accordingly affirm their determination to play an active part in the work being done in the IAEA to produce an internationally approved code of good practice.

Until such time as a more precise definition is formulated in that framework, the term 'radioactive waste' will be taken to mean any material for which no further use is envisaged and which contains or is contaminated by radionuclides of which the levels of radioactivity or the concentrations exceed the limits which the Community has set itself for protecting its own population in Article 4 (a) and (b) of Directive 80/836/Euratom (1), as last amended by Directive 84/467/Euratom (2). As regards levels of radioactivity, these limits range from 5×10^3 becquerel for nuclides of very high radiotoxicity to 5×10^6 becquerel for those of low radiotoxicity. As regards concentrations, these limits are 100 $Bq.g^{-1}$ and 500 $Bq.g^{-1}$ for solid natural radioactive substances.

(1) OJ No L 246, 17. 9. 1980, p. 1.
(2) OJ No L 265, 5. 10. 1984, p. 4.

ANNEX VII

Concerning the origin of fishery products

As regards the processing of fishery products in the OCT, the Community declares that it is willing to examine with an open mind requests for derogations from the rules of origin for processed products in this production sector based on the existence of compulsory landing requirements provided for in fishery agreements with third countries. The examination the Community is to make will take into account in particular the fact that the third countries concerned should ensure the normal market for such productions, following processing, insofar as the latter are not intended for national or regional consumption.

Within this context and for canned tuna, the Community will examine requests from the relevant authorities of the OCT in a positive spirit, case by case, provided that the economic dossier accompanying each request clearly shows that a case such as those referred to in the first subparagraph is involved. Taken within the time-limits provided for in Article 30 (8) of Annex II, the decision will indicate the agreed quantities and its duration of implementation, account being taken of Article 30 (9) of that Annex.

The derogations granted in the framework of this Annex shall not prejudice the rights of the relevant authorities of the OCT to apply for and obtain derogations granted under Article 30 of Annex II.

ANNEX VIII

Declaration by the Government of the Kingdom of the Netherlands

The government of the Kingdom of the Netherlands draws attention to the constitutional structure of the Kingdom resulting from the Statute of 29 December 1954, and in particular to the autonomy of the countries of the Kingdom so far as concerns the provisions of the Decision and the fact that the Decision was, in consequence, adopted in cooperation with the Governments of the Netherlands Antilles and Aruba pursuant to the constitutional procedures in force in the Kingdom.

It declares that, for that reason and without prejudice to the rights and obligations devolving upon it under the Treaty and under the Decision, the Governments of the Netherlands Antilles and Aruba will fulfil the obligations arising out of the Decision.

Moreover, the Government of the Kingdom of the Netherlands draws attention to the fact that the Governments of the Netherlands Antilles and Aruba have made it known that, having regard to the Treaty, and in particular Article 132 (5), and to Articles 232, 233 and 234 of the Decision, they consider it advisable to arrive at clearer arrangements with regard to the conditions under which the right of freedom of establishment and of provision of services of natural and legal persons is exercised in relations between the Member States, on one hand, and the Netherlands Antilles and Aruba, on the other hand.

It declares that, for that reason and taking into account the provisions of the Treaty, of the Decision and of the abovementioned Statute, steps will be taken to arrive at such arrangements which will have to be accompanied by the necessary guarantees.