

COUNCIL DECISION

of 29 September 1970

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

(70/549/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 at Yaoundé on 29 July 1969, and in particular Article 1 thereof;

Having regard to the draft from the Commission;

Having regard to the Opinion of the European Parliament¹;

Whereas the provisions applicable to the Association of the Overseas Countries and Territories with the Commu-

nity (hereinafter called 'countries and territories') must be laid down for a further period,

HAS DECIDED AS FOLLOWS:

Article 1

This Decision aims to promote the economic and social development of the Overseas Countries and Territories associated with the Community by increasing their trade and through financial measures and technical cooperation.

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

TITLE I

TRADE

Chapter I

Customs duties and quantitative restrictions

Article 2

1. Products originating in the countries and territories shall, on importation into the Community, be admitted free of customs duties and charges having equivalent effect; however, the treatment applied to these products shall not be more favourable than that applied by the Member States among themselves.

2. Paragraph 1 shall not, however, prejudice the import treatment applied to:

- such products listed in Annex II to the Treaty as come under a common organization of the market within the meaning of Article 40 of the Treaty;

- products subject, on importation into the Community, to specific rules as a consequence of the implementation of the common agricultural policy.

Annex I to this Decision states the conditions under which the Community, notwithstanding the general treatment in force in relation to third countries, shall determine the treatment to be applied to the products referred to above, when such products originate in the countries and territories.

Article 3

1. Imports of products originating in the Community and in other countries and territories shall be admitted into each country or territory free of customs duties and charges having equivalent effect.

2. The competent authorities of a country or territory may, however, retain or introduce, in accordance with Annex II to this Decision, customs duties and charges

¹ OJ No C 40, 3.4.1970, p 32.

having equivalent effect required to meet the development needs of the country of territory or intended to contribute to their budgets.

3. The same treatment shall be granted in each country or territory to products originating in each of the Member States or in other countries or territories.

Article 4

Where a country or territory levies duties on exports of its products to Member States or to other countries and territories, these duties may not give rise, in law or in fact, to any direct or indirect discrimination between Member States or other countries and territories.

Article 5

1. Without prejudice to the special provisions laid down in this Decision, Member States shall refrain from any internal fiscal measure or practice that directly or indirectly leads to discrimination between their own products and like products originating in the countries and territories.

2. Without prejudice to the special provisions laid down in this Decision, the competent authorities of the countries and territories shall refrain from any internal fiscal measure or practice that directly or indirectly leads to discrimination between products of those countries and territories and like products originating in the Community or in other countries and territories.

Article 6

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

2. Paragraph 1 shall not, however, prejudice the import treatment accorded to the products referred to in the first indent of Article 2 (2), or to products which are the subject of worldwide agreements.

Article 7

1. Subject to the provisions of this Article, the competent authorities of the countries and territories shall refrain from applying any quantitative restrictions or measures having equivalent effect to imports of products originating in Member States or in other countries and territories.

2. The competent authorities of the countries and territories may, in accordance with the procedure laid down in Annex III to this Decision, retain or introduce quantitative restrictions or measures having equivalent effect on imports of products originating in Member States and in other countries and territories in order to meet their development needs or in the event of difficulties arising in their balance of payments.

Quantitative restrictions or measures having equivalent effect may be applied, if necessary, at the same time as the tariff measures referred to in Article 3 (2).

3. Application of the quantitative restrictions or measures having equivalent effect provided for in paragraph 2 shall not give rise, in law or in fact, to discrimination between Member States, countries or territories.

4. The competent authorities of countries and territories in which imports come within the province of a State monopoly of a commercial character or of any public body which, in law or in fact, directly or indirectly limits imports, shall take any steps necessary to attain the objectives defined in this Title, and in particular that of non-discrimination between Member States and other countries and territories.

Article 8

Articles 6 and 7 shall not preclude prohibitions or restrictions on imports, exports or goods in transit justified on grounds of public morality, public policy or public security; the protection of health and life of humans, animals or plants; the protection of national treasures possessing artistic, historic or archaeological value; or the protection of industrial and commercial property.

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

Article 9

1. For the purposes of implementing this title, the concept of 'originating products', and the methods of administrative cooperation relating thereto, defined pursuant to the Council Decision¹ of 25 February 1964 on the Association of the Overseas Countries and Territories with the European Economic Community, shall continue to apply.

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

3. If for any product the concept of 'originating products' has not been defined pursuant to paragraphs 1 or 2, the Community and the competent authorities of the overseas countries and territories shall continue to apply their own rules.

Chapter II

Provisions concerning commercial policy

Article 10

Subject to the special provisions for frontier-zone traffic and without prejudice to Articles 11 and 12:

¹ OJ No 93, 11.6.1964, p. 1472/64.

- the treatment applied in countries and territories by virtue of this title to products originating in the Community and in other countries and territories shall not be less favourable than that applied to products originating in the most favoured third State;
- the treatment applied in countries and territories by virtue of this title to products originating in those countries and territories and destined for the Community or for other countries and territories shall not be less favourable than that applied to products destined for the most favoured third State.

Article 11

1. Customs unions or free trade areas may be maintained or established and economic cooperation agreements may be concluded between countries and territories.

2. The French Republic and the Kingdom of the Netherlands shall keep the Commission informed of matters falling within their respective spheres, and the Commission, in its turn, shall inform the other Member States.

Article 12

1. Customs unions or free trade areas may be maintained or established and economic cooperation agreements may be concluded between one or more countries and territories and one or more third countries in the same geographical area and at a comparable stage of development, provided that provisions concerning the origin of products in implementation of this Decision are not thereby affected.

The French Republic and the Kingdom of the Netherlands shall keep the Commission informed of matters falling within their respective spheres, and the Commission, in its turn, shall inform the other Member States.

2. At the request of a Member State or of the Commission there shall be consultations within the Council.

3. If these consultations reveal any incompatibility between the undertakings given by the countries and territories referred to in paragraph 1 and the principles or provisions of this Decision, the Council shall take any measures necessary for the proper functioning of the Association. It may also make any necessary recommendations.

Article 13

Customs unions or free trade areas may likewise be maintained or established and economic cooperation agreements may be concluded between one or more countries or territories and one or more other third countries, if they are compatible with this Decision and in particular with Article 10 thereof, and with provisions adopted in implementation of Article 9.

The French Republic and the Kingdom of the Netherlands shall keep the Commission informed of matters falling within their respective spheres and the Commission, in its turn, shall inform the other Member States.

At the request of a Member State or of the Commission there shall be consultations within the Council.

Article 14

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

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

3. A Member State or the Commission may likewise request that consultations be held on measures of commercial policy adopted by a Member State towards third countries, if such measures might be prejudicial to the interests of a country or territory.

Chapter III

Protective clauses

Article 15

1. If serious disturbances occur in a sector of the economy of a country or territory or prejudice its external financial stability, the competent authorities of the country or territory may take protective measures.

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

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

2. If serious disturbances occur in a sector of the economy of the Community or of one or more of its Member States, or prejudice their external financial stability, or if difficulties arise which adversely affect the economic situation of a given area of the Community, the Commission may take, or may authorize the Member State or States concerned to take, the necessary protective measures, including measures to counter deflection of trade.

At the request of any Member State concerned, the Council, acting by a qualified majority, shall decide

whether to uphold, repeal or amend the Commission Decision.

In case of urgency the Member State concerned may itself take the necessary protective measures. It shall immediately inform the Commission, and the Commission shall inform the other Member States. The Commission may decide whether these measures shall be amended or abolished. The provisions of the preceding subparagraph shall then apply.

In case of serious balance of payment difficulties a Member State may take the necessary measures in accordance with Articles 108 and 109 of the Treaty.

The Council, acting in accordance with the voting procedure laid down in Article 111 (3) of the Treaty on a proposal from the Commission, shall decide upon any amendments which may need to be made to this paragraph in consequence of the introduction of a common commercial policy.

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

TITLE II

Financial and technical cooperation

Article 16

In accordance with the provisions of this Title and of Annexes V, VI and VII to this Decision, the Community shall participate in measures, complementary to the action taken by the competent authorities of the countries and territories, to promote their economic and social development.

Article 17

For the purposes stated in Article 16, and for the period of validity of this Decision, an aggregate amount of 82 million units of account shall be supplied, with a view to covering the whole of the Community's aid, as follows:

- (a) 72 million units of account by the Member States. This amount shall be paid into the European Development Fund (hereinafter called the 'Fund') and used as follows:
- 62 million units of account in the form of non-reimbursable grants,
 - 10 million units of account in the form of loans on special terms and of contributions to the formation of risk capital, in particular by participating in it.

A breakdown of the amounts is given, for reference purposes, in Annex V to this Decision;

- (b) up to 10 million units of account by the European Investment Bank (hereinafter called the 'Bank') in the form of loans extended on the terms set out in Annex VI to this Decision and in the Statute of the Bank.

A breakdown of the amounts is given, for reference purposes, in Annex V to this Decision.

The Bank's loans may carry a rebate on the interest. The aggregate cost of the interest rebates on loans to overseas countries and territories after 1 June 1964 shall be charged against the total of the non-reimbursable grants.

Article 18

1. The amount fixed in Article 17 shall be used for the financing of projects and programmes set up as far as possible within the framework of a development plan and relating to:

- investment in production plant and economic and social infrastructure, in particular with a view to diversifying the economic structure of the countries and territories and, especially, to promoting their industrialization and agricultural development;
- general technical cooperation, or technical cooperation linked with investments;
- operations to promote the marketing and sale of products exported by the countries and territories.

2. Decisions on the various measures provided for in paragraph 1 shall take into account:

- the desirability of achieving integrated schemes by means of harmonized application of these measures;
- the desirability of promoting regional cooperation between the countries and territories and, where appropriate, between them and one or more neighbouring countries.

Article 19

1. The competent authorities of the countries and territories shall, if possible from the time of entry into force of this Decision, inform the Commission of their development plans and programmes and of any measures for which they wish to seek financial help.

They shall communicate any later modifications.

2. Documentation shall be transmitted to the Community for each project or programme for which financing

is requested pursuant to Article 18, either by the competent authorities in agreement with the local authorities or with a body representing the inhabitants of the countries and territories concerned, or by the undertaking in question with the approval of those authorities.

However, the Community may, where necessary, draw up technical cooperation projects and programmes for the benefit of a country or territory. It shall first secure the consent of the competent authorities of the country or territory on the broad outlines of each project or programme.

Article 20

The Community shall examine requests for financing referred to it pursuant to Article 19. It shall maintain such contact with the competent authorities of the countries and territories as it may require in order that its decisions on the projects or programmes submitted to it may be taken in full knowledge of the facts, and in order to be able to contribute to the promotion of a harmonious and balanced development of the various countries and territories. In examining these requests the Community shall take into account the particular problems facing the countries and territories which are at the greatest disadvantage in order to ensure that they receive appropriate financial and technical aid.

The country or territory or group of countries and territories concerned shall be informed of the action taken on their request.

Article 21

Aid contributed by the Community for the execution of certain projects or programmes may, with the consent of the competent authorities of the country or territory or countries and territories concerned, take the form of co-financing in which, in particular, credit and development bodies and institutions of the countries and territories, Member States, third States or international finance organizations may take part.

Article 22

The following may be recipients of the various forms of Community aid provided for in Article 18: countries and territories; legal persons in the Member States or in the countries and territories provided that their main objective is non-profit-making, that their work is in the general interest and that they are subject to government control in those Member States, countries and territories; producer groups or similar approved bodies or, in the absence thereof, and exceptionally, individual producers themselves.

In addition the following may be recipients:

- (a) of non-reimbursable grants devoted to general technical cooperation:

specialist bodies and institutions or, exceptionally, undertakings whose business is the training of specialists, and scholarship holders, trainees or persons following training courses:

- (b) of loans from the Bank and the rebates on interest thereon, loans on special terms, contributions to the formation of risk capital and any non-reimbursable grants made for technical cooperation linked with investments:

undertakings applying industrial and commercial management methods and formed within the meaning of the third and fourth paragraphs of Article 31.

Article 23

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

2. The provisions of paragraph 1 shall be without prejudice to measures intended to assist construction or large or small-scale production undertakings of the associated country or territory concerned or of another associated country or territory in the same area to take part in the execution of public works contracts of limited size or of contracts for the supply of goods of a kind produced locally.

Article 24

The French Republic and the Kingdom of the Netherlands shall endeavour to obtain assurances from the competent authorities of the countries and territories to the effect that the provisions in force on 31 May 1969 concerning the fiscal and customs arrangements applicable to contracts financed by the Community will be adhered to.

Article 25

1. The amounts allocated for financing projects or programmes under this Title shall be expended in accordance with agreed allocations and to the best economic advantage.

2. The management and upkeep of the economic and social infrastructure and of the production plant provided through Community aid shall be the responsibility of the recipients.

Article 26

The provisions of this Title and of Annexes V, VI and VII to this Decision shall apply also to the French overseas departments.

TITLE III

RIGHT OF ESTABLISHMENT, SERVICES, PAYMENTS AND MOVEMENTS

Article 27

The rules applied in the countries and territories as regards the right of establishment or the provision of services shall not, in law or in fact, constitute, either directly or indirectly, discrimination between nationals, companies or firms of individual Member States.

Nevertheless, nationals, companies or firms of a Member State may avail themselves of the provisions of the first paragraph in respect of a given activity in a country or territory only in so far as the State to which they belong grants similar advantages for the same activity to nationals, companies or firms of the French Republic or of the Kingdom of the Netherlands, as the case may be, as well as to companies or firms subject to the laws of the country or territory concerned and established therein.

Article 28

Where, in a country or territory, nationals, companies or firms of a State which is neither a Member State of the Community nor a country or territory receive treatment more favourable than that afforded under this Title to nationals, companies or firms of Member States, the same treatment shall be extended to nationals, companies or firms of Member States, save where it results from regional agreements.

Article 29

Subject to the provisions relating to capital movements, the right of establishment shall, for the purposes of this Decision, include the right to engage in and to exercise self-employed activities; to set up and manage undertakings, in particular, companies or firms; and to set up agencies, branches or subsidiaries.

Article 30

For the purpose of this Decision, 'services' means such services normally provided against remuneration as are not governed by the provisions relating to trade, the right of establishment or capital movements. Services shall include activities of an industrial, commercial, craft or professional nature, but not those of employed persons.

Article 31

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

For the purposes of the first paragraph of Article 27, 'companies or firms of individual Member States' means

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

For the purposes of the second paragraph of Article 27, 'companies or firms of the French Republic or of the Kingdom of the Netherlands' established in a country or territory means companies or firms formed in accordance with French or Dutch Law, as the case may be, and whose registered office, central administration or principal place of business is in that country or territory; however, a company or firm having only its registered office in a country or territory must, in order to set up agencies, branches or subsidiaries therein, be engaged in an activity which has an effective and continuous link with the economy of that country or territory.

For the purposes of the second paragraph of Article 27, 'companies or firms subject to the laws of the country or territory concerned and established therein' means companies or firms formed under the law of a given country or territory and whose registered office, central administration or principal place of business is in that country or territory; however, a company or firm having only its registered office in that country or territory must, in order to set up agencies, branches or subsidiaries therein, be engaged in an activity which has an effective and continuous link with the economy of that country or territory.

Article 32

Payments connected with the movement of goods, services, capital or earnings, or the transfer of these payments to the Member State or the country or territory in which the creditor or recipient resides, shall not be subject to any restriction to the extent that the movement of goods, services, capital and persons has been liberalized pursuant to this Decision.

Article 33

Throughout the period of subsistence of the loans and participations provided for in Chapter II of Annex VI to this Decision

- the currency necessary for the repayment of capital, interest and commission on loans granted for the execution of projects in the countries and territories shall be made available to debtors;
- the currency necessary for the transfer of all the sums representing the revenue and proceeds from transac-

tions contributing to the formation of the risk capital of undertakings shall be made available to the Bank.

Article 34

The competent authorities shall endeavour to apply liberal exchange arrangements to investments in the countries and territories and to transfers connected with capital movements resulting therefrom, where these are made by persons residing in the Member States.

Nationals and companies or firms of Member States shall be treated on an equal footing in the countries and

territories in respect of their investments and to capital movements resulting therefrom.

Article 35

The Council shall take the measures necessary for the application of this Title under the same voting procedure as that laid down by the Treaty in comparable fields.

To that end, it shall issue Directives and take decisions, acting on proposals from the Commission. It may also make recommendations or deliver Opinions.

TITLE IV

GENERAL AND FINAL PROVISIONS

Article 36

This Decision shall enter into force at the same time as the Internal Agreement on the Financing and Administration of Community Aid signed at Yaoundé on 29 July 1969.

Article 37

This Decision shall be valid for five years from the date of its entry into force and shall expire not later than 31 January 1975.

Article 38

The countries and territories to which this Decision shall apply are listed in Annex VIII.

Article 39

Before the date of expiry of this Decision the Council, acting unanimously, shall adopt provisions for the appli-

cation of the principles laid down in Articles 131 to 135 of the Treaty.

Article 40

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

Article 41

This Decision shall be published in the *Official Journal of the European Communities*.

Done at Brussels, 29 September 1970.

For the Council

The President

S. von BRAUN

ANNEX I

on the application of Article 2 (2) of the Decision

Article 1

1. The Community shall determine, case by case, what treatment is to be accorded to imports of each of the products or groups of products specified in Article 2(2) of the Decision and originating in the countries and territories where the latter have an economic interest in exporting such products.

The treatment which the Community applies to these products shall be more favourable than the general treatment applied to like products originating in third countries.

2. However, the Community may, exceptionally, refrain from applying special treatment to a particular product from the countries and territories if the economic situation in the Community in respect of that product so justifies.

Article 2

If products originating in the countries and territories and specified in the first indent of Article 2(2) of the Decision are

liable to customs duties on importation into the Community and if under the common agricultural policy there is no provision for trade in those products with third countries, their importation into the Community shall, notwithstanding Article 1, be governed by Article 2 (1) of the Decision.

Article 3

1. The treatment laid down for the various products on the basis of this Annex shall apply until the expiry of the Decision.

2. However, in the event of a change in the Community organization of markets, the Community reserves the right to modify the treatment laid down.

3. In that event, the Community undertakes to extend to the countries and territories under the new treatment advantages comparable to those which they enjoyed previously.

ANNEX II

on the application of Article 3 of the Decision

Article 1

The development needs of the countries and territories referred to in Article 3 (2) of the Decision are those arising from:

- the implementation of economic development programmes aimed at raising their general standard of living,
- their requirements for economic development, in particular for promoting new branches of production with a view to raising their general standard of living,
- their need to balance their payments and to counter difficulties arising mainly from their efforts to expand their domestic markets but also from instability in their terms of trade,
- the need to achieve a rapid and sustained increase in export income.

Article 2

1. The French Republic and the Kingdom of the Netherlands shall, each for its part, communicate to the Commission, within three months following the entry into force of the Decision, the customs tariff or the complete list of customs duties and charges having equivalent effect which the countries or territories levy on imports of products originating in the Community, in the other countries and territories and in third countries.

The communication shall specify the customs duties and charges having equivalent effect which, by virtue of Article 3 (2) of the Decision, will continue to apply to products originating in the Community or other countries and territories.

2. The Commission shall communicate the customs tariffs or the list referred to in paragraph 1 to the Member States and shall inform the Council of its observations, if any, regarding them.

At the request of a Member State or of the Commission, there shall be consultations within the Council on these customs tariffs or lists.

Article 3

1. The French Republic and the Kingdom of the Netherlands shall, each for its part, inform the Commission in good time of any customs duties or charges having equivalent effect which it is proposed to introduce or increase pursuant to Article 3 (2) of the Decision.

The communication shall include all economic and financial information enabling the need to introduce or retain these measures to be assessed.

2. The Commission shall immediately inform the other Member States of the proposed measures and shall supply them with the information mentioned in paragraph 1. It shall inform them of its observations, if any, on these measures.

At the request of a Member State or of the Commission consultations shall take place in the Council on the measures before their entry into force. If such consultations have not been held within two months following the date on which the French Republic or the Kingdom of the Netherlands informed the Commission of the proposed measures, the measures may enter into force.

3. In justifiable cases of urgency the measures may provisionally enter into force even before consultation, if the Commission is simultaneously informed thereof.

Article 4

For the purpose of levying customs duties and charges having equivalent effect, which have been retained or introduced pursuant to Article 3 (2) of the Decision, the customs value of the goods shall be the price that they would actually fetch, at the place and time of their introduction into the customs territory, in a sale in the open market between a buyer and a seller who are independent of each other.

ANNEX III

on the application of Article 7 of the Decision

Article 1

The development needs mentioned in Article 7 (2) of the Decision are those listed in Article 1 of Annex II.

Article 2

1. Quantitative restrictions and measures having equivalent effect, which were in force on the date of entry into force of the Decision and which have been retained by a country or territory by virtue of Article 7 (2) of that Decision, shall be notified to the Commission not later than three months after that date together with all explanations necessary for assessing the need to retain them.

The Commission shall immediately inform the other Member States of the measures and shall supply them with the information mentioned in the first subparagraph. It shall inform them of its observations, if any, on these measures.

At the request of a Member State or of the Commission consultations shall take place in the Council on the measures.

2. The French Republic and the Kingdom of the Netherlands shall, each for its part, inform the Commission in good time of any quantitative restrictions and measures having equivalent effect which the competent authorities of a country or territory intend to introduce in pursuance of Article 7 (2) of the Decision, together with all explanations necessary for assessing the need to introduce them.

The Commission shall immediately inform the other Member States of the proposed measures and shall supply them with the information mentioned in the first subparagraph. It shall inform them of its observations, if any, of these measures.

At the request of a Member State or of the Commission, consultations on the measures shall take place in the Council within one month.

In justifiable cases of urgency, in particular in respect of the agricultural products of the countries and territories, the meas-

ures may provisionally enter into force even before consultation, if the Commission is simultaneously informed thereof.

3. The Council shall hold the consultations referred to in paragraphs 1 and 2 within two months following the date on which the Commission is notified. If consultations do not take place within that period, the measures in question may be retained or introduced.

Article 3

The measures mentioned in Article 2 shall be applied subject to the condition that the country or territory concerned maintains import possibilities without discrimination in respect of products originating in the Community or in the other countries and territories.

The measures must be progressively relaxed so as to be eliminated as far as possible by the end of a period to be determined in each case.

Article 4

Where difficulties arise in the marketing of a particular product on the domestic market of a country or territory, the competent authorities of that country or territory may, notwithstanding Article 3 and on condition that the Commission has received prior notice, suspend imports of that product for a limited period to be determined case by case, subject to the existence of those difficulties being demonstrated and subject to all explanations necessary for assessing the need to prohibit such imports being supplied.

The Commission shall immediately inform the other Member States of the proposed measures and of the explanations mentioned in the first paragraph. It shall inform them of its observations, if any, on these measures.

At the request of a Member State or of the Commission consultations on the measures shall take place in the Council before they enter into force.

ANNEX IV

Declaration on the introduction of the generalized system of preferences within the framework of the United Nations Conference on Trade and Development

The Decision, and in particular Article 3 thereof, shall not preclude the introduction of a generalized system of preferences, and in particular shall not preclude the overseas countries from participating therein.

ANNEX V

Breakdown provided for in Article 17 of the Decision

Type of Aid	Country		
	French overseas territories and departments	Overseas countries with which the Netherlands has special relations	Total aid
Non-reimbursable grants	30	32	62
Loans on special terms	6	4	10
Total of non-reimbursable grants and loans on special terms	36	36	72
Bank loans	not exceeding 5	not exceeding 5	not exceeding 10

ANNEX VI

on the administration of financial aid

Chapter I

NATURE OF OPERATIONS

Article 1

The investments provided for in Article 18 of the Decision include:

- (a) directly productive investments, especially in industry and tourism;
- (b) development measures for the economy of rural areas, in particular measures to improve the structure of production, to diversify output and to increase productivity, in particular through short-term measures; these development measures may include specific applied research forming part of integrated projects;
- (c) investments in economic and social infrastructure, including infrastructure designed to stimulate the local development of industries and crafts.

Article 2

The technical cooperation linked with investments provided for in Article 18 of the Decision includes:

- (a) planning and special and regional development studies;
- (b) technical, economic and commercial studies, and research and advance planning required to prepare projects;
- (c) aid in the preparation of documentation;
- (d) aid in the execution and the supervision of work;
- (e) temporary aid for the establishment, launching and operation of a specific investment or of installations, including where necessary the training of personnel for the operation and maintenance of the investment or installations;

- (f) temporary responsibility for the cost of technicians and of the provision of consumer goods necessary to the proper execution of an investment project.

Article 3

The general technical cooperation provided for in Article 18 of the Decision includes:

- (a) the grant of scholarships for studies, training courses and postal tuition to provide, as a general rule in the countries and territories, for the vocational training of the nationals thereof;
- (b) the organization of specific training programmes in the countries and territories, in particular for the staff of public services and institutions of the countries and territories or of undertakings therein;
- (c) at the request of the countries and territories, the provision of experts, advisers, technicians and instructors of the Member States, or of the countries and territories, for specific missions and for limited periods;
- (d) the supply of experimental and demonstration equipment;
- (e) the organization of short training courses for nationals of the countries and territories and advanced training courses for civil servants of those countries and territories;
- (f) sectoral studies;
- (g) studies of the prospects and opportunities for economic development and diversification in the countries and territories;
- (h) general information and documentation to promote the economic and social development of the countries and territories, the development of trade between those countries and territories and the Community, and the achievement of the aims of financial and technical cooperation.

Article 4

The purposes of the marketing and sales promotion aid provided for in Article 18 of the Decision are:

- (a) to improve the structure and working methods of organizations, services or undertakings contributing to the development of the external trade of the countries and territories or to promote the creation of such organizations, services or undertakings;
- (b) to promote participation by the countries and territories in international trade fairs and exhibitions;
- (c) to train external trade and sales promotion specialists;
- (d) to undertake market surveys and market research and to encourage use of their results;
- (e) to improve the dissemination of information in the Community and the countries and territories with a view to developing trade.

Chapter II

METHODS OF FINANCING

Article 5

1. Projects and programmes may be financed by non-reimbursable grants, by loans on special terms, by bank loans with or without interest rebates or by several of these methods in combination.

Furthermore, undertakings applying industrial and trade management methods may, in respect of their investments, receive contributions to the formation of their risk capital.

2. The technical cooperation provided for in Articles 2, 3 and 4 shall, however, be financed through non-reimbursable grants.

Article 6

Loans for the financing of economic investment projects shall be granted either direct to the recipient, or, where appropriate, through the country or territory concerned or through a national or multinational organization undertaking the financing of development measures.

The terms and conditions according to which the ultimate recipient receives the loans through the intermediary borrower shall be drawn up simultaneously and by common accord between the intermediary borrower and the Community institutions responsible for granting the loan.

Article 7

1. Investment projects of general benefit to the economy of the country or territory in which they are executed may be financed wholly or partly by means of loans on special terms where the financial viability of these projects and the economic situation of the countries and territories when the loan is granted so allow.

2. Such loans may be granted for a period of up to 40 years and for a redemption-free period of up to 10 years. It shall be granted on favourable interest terms.

3. The Community shall lay down the terms for these loans and the rules for payment and repayment.

Article 8

1. Scrutiny by the Bank of the eligibility of projects and the granting of loans from its own resources shall be effected in accordance with the rules, conditions and procedures provided for in its Statute.

2. The redemption period of each loan from the Bank shall be determined on the basis of the economic and financial characteristics of the project: that period may not exceed 25 years.

3. The rate of interest shall be the rate charged by the Bank at the time of signature of the loan. Interest rebates on these loans may not reduce to less than 3% the rate of interest which the recipient will actually bear. However, in the case of loans granted through state controlled development financing institutions, the minimum rate to be borne by the intermediary borrower may not be less than 2%.

4. The total value of interest rebates, at the time of signature of the loan, calculated at a rate and according to rules to be laid down by the Community, shall be paid direct to the Bank.

Article 9

In order to encourage the execution of projects of general interest to the economy of the country or territory concerned, the Community may contribute to the formation of risk capital by participating in it or by other appropriate methods, in such a way as to increase the resources of the recipients referred to in Article 22 (b) of the Decision.

These contributions shall be of a minority nature. They may be made in conjunction with a loan from the Bank or, exceptionally, with a loan on special terms.

Chapter III

USE OF AID

Article 10

1. The documentation prepared in accordance with Article 19 (2) of the Decision shall be submitted to the Community through the Commission. However, projects for which either a loan from the Bank, with or without interest rebates, or a contribution to the formation of risk capital is requested shall be submitted to the Bank.

2. The method of financing indicated in the request shall not prejudice the method of financing to be adopted by the Community.

Article 11

1. Financial aid may be used to cover import expenses and the local expenditure necessary for the execution of approved investment projects.

2. Such aid may not be used to cover current administrative maintenance and operating expenses.

Article 12

The provisions relating to monopolies, and the quantitative restrictions retained or introduced pursuant to Article 7 of the Decision and Annex III, shall not apply to imports into a country or territory where such imports are financed out of Community aid.

Article 13

The Community and the countries and territories shall collaborate in all measures necessary to ensure that the amounts allocated by the Community are used in accordance with Articles 23 and 25 of the Decision.

Article 14

The general clauses and conditions applicable to the award and execution of public works contracts financed by the Fund shall

be the subject of a Recommendation adopted by the Council of the European Communities acting unanimously on a proposal of the Commission, to be addressed to the Governments of the French Republic and the Kingdom of the Netherlands.

Article 15

1. The competent authorities of the countries and territories shall be responsible for the execution of the projects submitted in accordance with Article 19 (2) of the Decision and financed by the Community. Furthermore, recipient undertakings shall be responsible, each for its part, for executing the project which it submitted.

2. The competent authorities of the countries and territories and, where appropriate, the institutions or other specialized organizations of Member States or of the countries and territories shall be responsible for the execution of technical cooperation measures.

Article 16

The financial and administrative expenses of the Fund and the cost of supervising projects and programmes shall be charged to the fund allocated to non-reimbursable grants.

ANNEX VII

on the value of the unit of account

Article 1

The value of the unit of account used to express amounts in the Decision or in the provisions made in implementation thereof shall be 0.88867088 grammes of fine gold.

Article 2

The parity of the currency of a Member State in relation to the unit of account defined in Article 1 shall be the relation between the weight of fine gold contained in the unit of account and the weight of fine gold corresponding to the par value of that currency communicated to the International Monetary Fund. If no par value has been communicated or if exchange rates differing from the par value by a margin exceeding that authorized by the Fund are applied to current payments, the weight of fine gold corresponding to the parity of the currency shall be calculated on the basis of the exchange rate for a currency directly or indirectly expressed in and convertible into gold which is applied in the Member State to current payments on the day of the calculation, and on the basis of the par value communicated to the Monetary Fund for that convertible currency.

Article 3

The unit of account defined in Article 1 shall remain unchanged throughout the period of application of the Decision. If however, before the end of that period a uniform proportionate change in the par values of all currencies in relation to gold should be decided by the International Monetary Fund, under Article IV, Section 7, of its Articles of Agreement, the weight of fine gold contained in the unit of account shall alter in inverse ratio to that change.

If one or more Member States do not apply the Decision taken by the International Monetary Fund referred to in the preceding subparagraph, the weight of fine gold contained in the unit of account shall alter in inverse ratio to the change decided by the International Monetary Fund. However, the Council shall examine the situation thus created and shall take the necessary measures, acting by a qualified majority as provided for in Article 13 (3) of the Internal Agreement on the Financing and Administration of Community Aid, after receiving a proposal from the Commission and the Opinion of the Monetary Committee.

ANNEX VIII

List of the countries and territories referred to in Article 38 of the Decision

(a) *Overseas countries:*

Surinam and the Netherlands Antilles.

(b) *Overseas territories:*

Saint Pierre and Miquelon, the Comoro Archipelago, the French territory of the Afars and Issas, New Caledonia and dependencies, Wallis and Futuna Islands, French Polynesia and the French Southern and Antarctic Territories.

ANNEX IX

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

non-European parts of the Kingdom, so far as concerns certain provisions of the Decision and the fact that the Decision was, in consequence, adopted in cooperation with the Governments of Surinam and the Netherlands Antilles pursuant to the constitutional procedure 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 Surinam and of the Netherlands Antilles will fulfil the obligations arising out of the Decision.
