

**GENERAL AGREEMENT
ON TARIFFS AND TRADE**

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ACP COUNTRIES - EUROPEAN COMMUNITIES
FOURTH LOMÉ CONVENTION

Request for a Waiver

The following communication, dated 10 October 1994, has been received from the Parties to the Fourth Lomé Convention with the request that it be circulated to contracting parties and that the matter be inscribed on the Agenda of the Council meeting on 10 November 1994.

1. Purpose of the request

The Parties¹ to the Fourth Lomé Convention² are convinced that the trade policy objectives resulting from the Convention are in conformity with the principles, rules and practices of the General Agreement, and entirely compatible with their obligations under Article XXIV in the light of Part IV. The Parties to the Convention also recall that there is a general recognition that the objective of the Convention is commendable. However, given the extreme importance of the trade provisions of the Fourth Lomé Convention for the economy of the ACP countries and in view of the current high sensibility of the matter among the contracting parties, the Parties to the Convention found it more appropriate at this stage to improve legal certainty for the trade of ACP countries.

2. Main features of the Fourth Lomé Convention

(a) Objectives of the Fourth Lomé Convention

The Fourth Lomé Convention was signed on 15 December 1989 and is applied by 70 African, Caribbean and Pacific States on the one hand, the European Communities and their Member States on the other hand. In total, 58 parties to the Convention are also GATT contracting parties. This represents almost half the contracting parties. The Convention has been concluded for ten years as of 1 March 1990.

The Fourth Lomé Convention is the successor of similar previous conventions that have governed the relationship between the two groupings since the very inception, 40 years ago, of the European

¹Hereinafter the "Parties to the Convention". These terms refer to the European Communities and to those parties to the Fourth Lomé Convention which are also contracting parties to the GATT.

²Hereinafter also "the Convention". The text of the Fourth ACP-EEC Convention, signed at Lomé on 15 December 1989, was circulated to contracting parties on 16 December 1992 (GATT document L/7153).

Communities. Those Conventions find their origin in the Treaty of Rome and in the very close cultural, political and economic ties which have existed for a very long period between ACP countries and some of the Member States of the European Communities.

The Convention has been the most extensive cooperation instrument between regional groupings of industrialized and developing countries established until now. It acknowledges the needs of a large number of developing and least developed countries in that it provides for trade liberalization, industrial development and cooperation in the fields of agriculture, fisheries, commodities, mining, energy, enterprise, services, environment, culture and social matters without requesting reciprocity from ACP countries.

(b) Provisions relating to trade

In the field of trade, the provisions of the Convention allow for preferential treatment by the EC, including duty-free access, for products originating in ACP countries.

In addition, the Convention provides for a system to guarantee the stabilization of ACP earnings from their exports, either to the EC or to other destinations, of agricultural and mining products on which their economies are dependent and which are affected by fluctuations in prices and/or supply.

3. Effect of the Convention on other contracting parties

The value of the exports of ACP countries as a whole to the EC has oscillated between ECU 19,000 million in 1980, ECU 26,000 million in 1985 and ECU 18,000 million in 1992 (1 ECU = more or less US\$1.2). These figures are modest in terms of share of imports from ACP countries on the EC market compared to total EC imports, since the percentage never exceeded 7 per cent and is currently about 3.5 per cent. This is ample evidence that the preference granted to ACP exports has not resulted in the displacement of imports of like products from non-ACP countries.

At the same time, the effect of the preference is significant on trade of the ACP countries since more than 41 per cent of total ACP export earnings come from exports to the EC (1990-92 figures). The degree of dependency of ACP trade on the access to the EC market is even more visible in individual cases of least developed ACP countries, such as Niger, Sierra Leone, Chad, Uganda or the Central African Republic, to take a few examples, with 80 per cent, 73 per cent, 68 per cent, 75 per cent and 82 per cent respectively of their export earnings coming from sales to the EC. This illustrates the crucial importance of the Lomé relationship for a large number of the poorest countries in the world.

The Fourth Lomé Convention has been designed to continue the promotion of trade of the ACP countries. It is not intended to raise barriers or to create undue difficulties for the trade of any of the other contracting parties.

4. Effect of the Convention on MFN treatment and GSP

The Convention does not create any impediment to the reduction or elimination of tariffs or other restrictions to trade on a most-favoured-nation basis. The tariff preferences under the Convention will not affect benefits to other developing nations under the EC's GSP programme.

5. Conclusion

Therefore, without prejudice to their position regarding the compatibility of the Convention with Article XXIV in light of Part IV, the Parties to the Convention request a waiver from the obligations of the European Communities under Article I:1 on the basis of Article XXV:5, with respect to the granting of preferential treatment for products originating in ACP countries as foreseen under the relevant provisions of the Fourth Lomé Convention, for the duration of the Convention.

The Parties to the Convention request that the CONTRACTING PARTIES give their application for a waiver expeditious consideration. In the meantime, the Parties to the Convention are prepared to give full consideration to representations made to them by other contracting parties and to engage into consultation with them.

Annex: Statistical Annex

STATISTICAL ANNEX

	1990		1991		1992		1993	
	1	2	1	2	1	2	1	2
Total imports by the EEC from ACP States	19,254,533	100.00%	18,293,484	100.00%	17,964,163	100.00%	14,572,598	100.00%
Imports from ACP States receiving duty-free treatment under MFN	12,493,476	64.89%	11,342,891	62.01%	10,952,437	60.97%	7,858,999	53.93%
Imports from ACP States eligible for GSP treatment (full exemption or reduced tariffs)	1,321,149	6.86%	1,301,566	7.11%	1,177,894	6.65%	1,180,353	8.10%
Imports from ACP States admitted under the Lomé Convention	6,366,817	33.07%	6,859,780	37.50%	6,763,981	37.85%	6,617,864	45.41%
of which:								
- agricultural products (chap 01-24)	4,346,966	22.58%	4,735,475	25.89%	4,812,695	26.79%	4,739,077	32.52%
- industrial products (chap 25-98)	2,019,851	10.49%	2,124,304	11.61%	1,951,286	10.86%	1,878,577	12.59%
Imports from ACP States still subject to customs duties, levies or charges having equivalent effect	356,767	1.85%	65,483	0.36%	0	0.00%	0	0.00%
Imports from ACP States of chapter 99 of 0090000000	36,074	0.13%	24,285	0.13%	27,865 219,880	0.16% 1.22%	26,446 59,499	0.18% 0.48%

1990 and 1991: without Namibia

Column 1 = total imports

Column 2 = % in total imports from ACP countries

Unit = Thousand ECU