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(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 31 March 1976

on the interim measures applicable to the overseas countries and territories associated with the European Economic Community in matters of establishment, services, payments and capital movements

(76/343/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 136 thereof,

Whereas the ACP-EEC Convention of Lomé between the African, Caribbean and Pacific States and the European Economic Community enters into force on 1 April 1976 and will incorporate provisions relating to establishment, services, payments and capital movements;

Whereas a Council Decision on the association of the overseas countries and territories to the European Economic Community is envisaged and will include provisions relating to the same areas;

Whereas interim arrangements in matters of establishment, services, payments and capital movements applicable in relations with the overseas countries and territories associated with the European Economic Community, hereinafter called 'the countries and territories', should be laid down, due regard being paid to those laid down for the relations with the ACP States;

Whereas a provision should be laid down to the effect that this Decision will cease to apply as soon

as the proposed Decision on the association of the overseas countries and territories enters into force,

HAS DECIDED AS FOLLOWS:

Article 1

As regards the arrangements that may be applied in matters of establishment and provision of services, the relevant authorities of the countries and territories listed in the Annex shall treat nationals and companies or firms of Member States on a non-discriminatory basis.

However, if, for a given activity, a Member State is unable to provide similar benefits to nationals or companies or firms of the French Republic, the Kingdom of the Netherlands or the United Kingdom of Great Britain and Northern Ireland, established in a country or territory, or to companies or firms subject to the laws of the country or territory concerned and established therein, the relevant authorities of that country or territory shall not be bound to respect the obligation contained in the first paragraph.

Article 2

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 1, 'companies or firms of 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 1, 'companies or firms of the French Republic, the Kingdom of the Netherlands or the United Kingdom of Great Britain and Northern Ireland, established in a country or territory' means companies or firms formed in accordance with French, Dutch or United Kingdom 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 1, '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 3

With regard to capital movements linked with investments and to current payments, the relevant authorities of the countries and territories and the Member States shall refrain from taking action in the field of foreign exchange transactions which would be incompatible with their obligations resulting from the application of the provisions of Council Regulation

(EEC) No 1957/75 relating to trade in goods, and of the provisions of this Decision relating to services and establishment.

These obligations shall not however prevent implementation of the necessary protective measures, in conformity with Article 4, should this be justified by reasons relating to serious economic difficulties or severe balance of payments problems.

Article 4

In respect of foreign exchange transactions linked with investments and current payments, the relevant authorities of the countries and territories 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.

To the extent that such measures or treatment are unavoidable they will be maintained or introduced in accordance with international monetary rules and every effort will be made to minimize any adverse effects on the parties concerned.

Article 5

This Decision shall enter into force on 1 April 1976.

Article 6

This Decision shall apply until the proposed Decision on the association of the overseas countries and territories enters into force and until 31 July 1976 at the latest.

Article 7

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

Done at Brussels, 31 March 1976.

For the Council
The President
G. THORN

ANNEX

List of the countries and territories referred to in Article 1

(This list does not prejudice the status of these countries and territories now or in the future)

1. Overseas countries of the Kingdom of the Netherlands:
 - the Netherlands Antilles (Aruba, Bonaire, Curaçao, St Martin, Saba, St Eustatius).
 2. Overseas territories of the French Republic:
 - Saint Pierre and Miquelon,
 - Mayotte,
 - Territory of the Afars and Issas,
 - New Caledonia and Dependencies,
 - Wallis and Futuna Islands,
 - French Polynesia,
 - French Southern and Antarctic Territories.
 3. Overseas countries and territories of the United Kingdom of Great Britain and Northern Ireland:
 - Belize,
 - Brunei,
 - Associated States in the Caribbean (Antigua, Dominica, St Lucia, St Vincent, St Kitts, Nevis and Anguilla),
 - Cayman Islands,
 - Falkland Islands and Dependencies,
 - Gilbert Islands,
 - Solomon Islands,
 - Turks and Caicos Islands,
 - British Virgin Islands,
 - Montserrat,
 - Pitcairn,
 - St Helena and Dependencies,
 - Seychelles,
 - British Antarctic Territory,
 - British Indian Ocean Territory,
 - Tuvalu.
 4. Anglo-French Condominium of the New Hebrides.
 5. Countries provisionally covered by this Decision:
 - The Comoros,
 - Surinam.
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