1. The text of the ACP-EEC Convention of Lomé was communicated to GATT and circulated to contracting parties in July 1975 under cover of documents L/4193 and L/4198. A Working Party was appointed by the Council at its meeting in July 1975 with the following terms of reference:

"To examine, in the light of the relevant provisions of the General Agreement, the provisions of the ACP-EEC Convention of Lomé, dated 28 February 1975, and to report to the Council."

2. The Working Party, which was open to all contracting parties indicating their wish to serve on it and ACP States not contracting parties wishing to participate in an observer capacity\(^1\), met on 24 and 25 June 1976 under the chairmanship of Mr. G.L. Easterbrook Smith (New Zealand). In addition to the text of the Convention, the Working Party had available questions submitted by contracting parties on the Convention and the replies thereto provided by the parties to the Convention. The questions and replies had been circulated as document L/4325.

\(^1\) A list of representatives has been circulated as document
3. In an introductory statement, the representative of the European Communities, recalling the essential elements of the Convention as well as the economic and political context in which it was placed, said that the Community believed that it, together with its partners, had created in the Lomé Convention an effective instrument for economic co-operation between developed and developing countries which would contribute towards a more just international economic order. While the Lomé Convention represented a continuation of experience under previous Conventions, it contained new elements resulting from changes in the position of the developing countries and the will of the Community to respond as far as possible to such changes. It was part of an effort which the different developed countries were making in several international fora. The Community was engaged in co-operation efforts in favour of all developing countries through diverse and complementary measures: its GSP had been progressively adapted to meet the needs of developing countries in general; the EEC was participating in international commodity agreements and in the provision of food aid; and financial aid and technical assistance had been made available to a number of developing countries. Within this evolving context, the Lomé Convention was a diversified instrument and the largest in so far as its field of application was concerned. The forty-six ACP countries contained 15 per cent of the population of developing countries, but accounted for only 10 per cent of their GNP, and included nineteen countries which figured on the list of least developed countries.

4. He stated that the trade provisions of the Convention, which were the subject of the work of the Group, must be considered from several angles. Firstly, they constituted an instrument complementary to others in the Convention and should
be examined in this context. Also, the Convention had been concluded between
countries with particular historical, economic and trade links, and its trade
provisions succeeded those which had existed on the one hand between the Europe
of Six and a section of the ACP countries and, on the other hand, between the
United Kingdom and Ireland and other ACP countries. They represented the
adaptation to a single régime compatible with the normal functioning of the customs
union of the nine member States of the Community, of the particular régimes that
the Nine had been applying respectively to different ACP countries. In this
context, under the new Convention, the Community was obliged to eliminate customs
duties and other restrictive regulations of commerce with respect to substantially
all trade with the ACP. In the light of their development needs and the
principles of Part IV of the General Agreement, the Community had not demanded
reciprocity in its trade with the ACP. The Community was convinced that the
Convention was in conformity with the obligations of contracting parties and
fully responded to the objectives which governed the GATT. It requested,
therefore, that the Convention be examined in the light of the totality of the
objectives of the General Agreement and as a positive contribution towards the
creation of a more just and balanced world economic order. The Community was
prepared to co-operate fully in the examination of the Convention and to furnish
periodically all relevant information on its implementation. In conclusion, he
stated that the Community requested all its GATT partners to approach the work
of the Working Party in the same spirit and believed that such an approach could
be a positive factor in international economic relations.
5. The spokesman for the ACP countries stated that in the view of the ACP countries the Convention was compatible with the objectives and principles of the General Agreement and at the same time represented an advance towards the realization of a more equitable form of co-operation between developed and developing countries. Although the terms of reference of the Working Party focussed on consideration of the trade arrangements of the Convention, the Convention was more than that, providing a basis for co-operation in diverse fields between countries of different economic strengths and at greatly different levels of economic development. It was to be noted that the ACP included a majority of the least developed countries and, in addition, a number of island and land-locked countries. Many ACP countries had suffered prolonged drought, e.g. in the Sahel regions, and all had been affected in one way or another by the recent economic crisis. Also relevant to the negotiation of the Convention was the enlargement of the European Communities for without the trade provisions of the Convention it was likely that traditional trading links would have been severed thus creating severe difficulties for developing countries now parties to the Convention. The ACP States considered the Lomé Convention a sound and equitable basis on which to build stronger and more self-assured economies and a step in the evolution towards a new international economic order.

6. A member of the Working Party welcomed the Convention as representing an imaginative and realistic model for co-operation between developed and developing countries, which introduced significant new features including the arrangement
for the stabilization of export earnings of ACP signatories, industrial co-operation, etc. This member, while noting the view that the Convention was consistent with the principles embodied in Part IV of the General Agreement, expressed the hope that it would not be implemented to the disadvantage of those contracting parties which were not signatories. He stressed the need to recognize and pursue the joint interests of all developing countries, and hoped that the Convention could be regarded as a first step towards this end which could be emulated.

7. Another member of the Working Party felt it was desirable to re-state his country's position on those preferential arrangements which may have the effect of compartmentalizing trade relations and of moving away from global forms of trade liberalization. His authorities believed that there were innovative features in the Convention, as had been indicated at the meeting of the Council in July 1975. However, with regard to the trade provisions which were the concern of GATT, his authorities had some reservations as to the compatibility of the Convention with the provisions of the General Agreement as cited in the reply to Question 1 in document L/4325. It was also difficult to judge at this stage whether the trade provisions would jeopardize future trade liberalization in the interests of all developing countries. In this connexion, it was hoped that the EEC would take fully into account the trade interests of third developing countries with a view to securing a reasonable balance of benefits. This could be done, for example, in the course of the multilateral trade negotiations and through progressive improvements in the GSP.
8. One other member of the Working Party noted that as the Lomé Convention was a reflection of today's needs, it could be expected to be examined in a positive spirit taking into account Part IV and the objectives which generally motivate the General Agreement.

9. After introductory statements by parties to the Convention, and general statements from some other members of the Working Party, members proceeded to an examination of the provisions of the Convention taking into account the questions and replies circulated in document L/4325.

10. A member of the Working Party expressed the view that the provisions in the Convention on rules of origin, which were exhaustive and complicated, might be restrictive in their operation and tend in particular to discourage investment in the ACP countries from sources other than the EEC. They may also lead to an increase in the cost of development especially in the least developed of ACP States. This member commended the Convention for providing for the elimination of reverse preferences, which were featured in the Yaoundé Conventions, and urged the ACP countries parties to the Convention to remove as soon as possible all remaining reverse preferences.

11. The representative of the EEC explained that rules of origin which were characteristic of arrangements of this kind were necessary in order to limit benefits to the parties to the Convention. Those in this Convention differed only slightly from the rules contained in the Yaoundé Convention. The contribution of rules of origin to enlarging opportunities for further industrial development in the ACP
States was more significant than the possibilities of distortion in import sources. Many countries, some of which are contracting parties, provide for the development of further processing and the greater use of their transportation facilities, through the specification of rules of origin.

12. In reply to a question concerning reverse preferences, the representative of the ACP countries stated that the Convention did not require them to grant reverse preferences. At the same time article 7 of the Convention accommodated a historical situation in which prior to the enlargement of the EEC some ACP countries granted preferences to the original six members of the EEC and others to the United Kingdom. In view of their obligation under the Convention not to discriminate as between EEC member countries, he would expect ACP countries progressively to eliminate those preferences which remained, as they adjusted to the new trading relationships created by the Convention. Indeed some ACP countries had already notified the EEC that they would not extend Commonwealth Preferences to Community States.

13. The representative of the EEC observed that, while ACP countries were in the process of examining their positions on reverse preferences, the overall tendency was evidently in the direction of an elimination of such preferences. One ACP member had recently notified the EEC that it would not continue its preferences. He indicated that parties to the Convention which were contracting parties were likely to be in a position to provide appropriate information to the Contracting Parties in this respect when they made periodic reports on the operation of the Convention.
14. One member of the Working Party referred to the possibility that certain provisions of the Convention in their operation might adversely affect the interest of non-ACP developing countries and to the need, in that event, for appropriate compensatory action by the EEC. From the point of view of existing commercial and trade links the countries covered by the EEC’s Joint Declaration of Intent (JDI) were in a position similar to that of the Commonwealth countries which were now ACP States. He hoped the EEC would make a comparable effort to tackle the problems faced by JDI countries.

15. The representative of the Community emphasized that in the development of its external policy, the Community had not ignored non-ACP countries. The EEC continued to make improvements in its GSP scheme and to enter into bilateral arrangements involving trade co-operation and aid. It had made an active effort to evolve solutions for JDI countries and would continue to explore possibilities for ensuring further balance in its economic relations with developing countries through the multilateral trade negotiations.

16. One member of the Working Party asked whether the reply of the parties to the Convention to the question concerning reverse preferences in respect of customs duties also applied to quantitative restrictions since Article 7(1) of the Convention refers to obligations "in respect of imports" rather than specifically to tariffs; that was to say was it correct that ACP States were not required to eliminate quantitative restrictions in favour of the EEC? In response the spokesman of the ACP stated that ACP countries applied quantitative restrictions on a uniform across-the-board basis for balance-of-payments or development reasons and that the Convention did not affect this. The representative
of the European Communities said that, since the EEC was obliged under Articles 2 and 3 of the Convention to eliminate most tariffs and quantitative restrictions on imports from ACP States and since under Article 7(1) ACP States were not required to assume in respect of imports of products originating in the Community obligations corresponding to the commitments entered into by the Community in respect of products originating in the ACP States, they were not bound to eliminate quantitative restrictions on imports from the Community.

17. Another member of the Working Party said that from the reply to question 16 he took it that quantitative restrictions not applied by the EEC to imports from ACP countries may continue to apply to imports from other developing countries. He was confident, in the light of previous statements by the European Communities, that any resulting problem for countries such as his own would be examined sympathetically, for example in the context of the Joint Declaration of Intent annexed to the Treaty of Accession or in the MTN Sub-Group "Quantitative Restrictions", and that appropriate solutions would be found.

In response, the representative of the European Communities said that much had already been done in respect of the Joint Declaration of Intent and that this effort would continue.

18. One member of the Working Party stated that although the STABEX system had been described as being principally an aid mechanism, it could have an affect on trade to the detriment of third countries. STABEX operations could, for example, stimulate production, thus tending to aggravate rather than alleviate situations of over-production and declining prices. In addition, beneficiaries could use STABEX funds to
subsidize production for export. Moreover, these funds could enable ACP countries to maintain their production capability for the commodities covered while other suppliers would be forced to shoulder adjustments to world market conditions. He stated that his country would therefore like to urge the EEC and the ACP countries to implement the STABEX scheme in a manner which did not stimulate inefficient production of commodities, thus creating a situation which might result in the further deterioration of export earnings. He asked whether the parties to the Convention would be prepared to report to the CONTRACTING PARTIES any expansion of coverage of the STABEX scheme.

In response, the representative of the European Communities said that the STABEX scheme had been conceived so as to avoid such negative effects. The purpose of the scheme, which had been designed to stabilize export earnings on an ex post basis was not to subsidize excess or inefficient production. In the near future, the EEC Council of Ministers would be called upon to pronounce upon the proposals made by the Commission on the application of the STABEX scheme over the last year. The amount involved, representing both grants and loans, would be about 50 to 60 million units of account. The provisions governing the STABEX scheme were specific and the product coverage was spelt out. It was unlikely that in the next few years significant changes would be made, but were this to be the case, the Community would be prepared to inform the CONTRACTING PARTIES of such changes.
20. One member of the Working Party noted that in the reply to question 33 on the communication by the parties to the Convention of their customs tariffs to the GATT, it is stated that ACP states will continue, for their part, to fulfill their GATT obligations in this regard. He asked whether this meant that ACP States who were not contracting parties might not make their customs tariffs available to the GATT. In this connexion, he drew attention to a recent Working Party on a free-trade agreement between a contracting party and a non-contracting party, in which the non-contracting party concerned had not provided the required information. He believed that in such cases the GATT contracting party which was a party to the agreement under examination should be prepared to provide such information. He recalled that this position had also been strongly taken by the EEC. He asked, therefore, whether, if some ACP States were not prepared to make available their customs tariffs, it was the intention of the EEC to supply such tariffs to the CONTRACTING PARTIES. In response, the representative of the European Communities stated that there was a substantive difference between the Lomé Convention and the agreement referred to; the former did not require the ACP countries to give preferences to imports from the Community, while the latter was a free-trade area agreement. Thus, in respect of the Lomé Convention there could be no justification for demanding such information.

21. A member of the Working Party noted, with reference to question 32, that the parties to the Convention were prepared to provide the Contracting Parties with periodic reports on the implementation of the Convention. He suggested that reports be presented annually. In response, the representative of the
European Communities recalled that the GATT Council had adopted a procedural decision which stipulated that reports made in the context of regional trade arrangements should be made every two years. As long as this decision remained valid he considered it reasonable that it should apply to the Lomé Convention. The spokesman for the ACP States said that, while they were not undertaking any obligations additional to those under the General Agreement, the ACP secretariat in Brussels would do its best to provide information in response to any question addressed to it by a contracting party.

22. One member of the Working Party noted that, in response to questions 42 to 47, it was stated that every effort would be made to provide the statistical information required to the extent that it was available at the earliest possible date. He enquired when this information might be available. The spokesman for the ACP States stated that they had run into practical problems in compiling the statistics requested. He hoped that by the time the first report was made to the Contracting Parties on the implementation of the Convention, it would be possible to provide statistics covering the first year of operation of the Convention.

Concluding remarks

23. The parties to the Convention considered that it was compatible with their obligations under the General Agreement as reflected in their replies to Questions 1 and 2 in document L/4325. Since the objective of the Convention was to implement actions and measures aimed at improving standards of living and the economic
development of less-developed countries, it could not but be in line with the objectives pursued by the GATT, in particular those defined in Part IV. As indicated previously, the parties to the Convention were prepared to supply information on a periodic basis. It was understood that non-ACP countries contracting parties to the General Agreement would continue to have their legal rights under the GATT in all matters relating to the Convention.

24. Some members of the Working Party considered that the Convention might be looked at in a dynamic perspective taking into account Part IV and the overall objectives of the General Agreement. However, one member said that such a pragmatic approach should not involve the risk of erosion of the provisions of the General Agreement. Developments under the Convention might be re-examined in the future in the light of the activities of the parties to the Convention.

25. While acknowledging the positive objectives of the Convention and the existence of historical and trade links between the parties to the Convention, one member of the Working Party noted that ACP States were not required to assume in respect of imports of products originating in the EEC obligations corresponding to the commitments entered into by the EEC. He also noted the lack of universality in the treatment applied to developing countries by the EEC. In his view this indicated that the Convention had a number of elements which constituted significant exceptions to fundamental provisions and principles of the General Agreement. However, this member declared a willingness to await developments that might tend to show that the Convention was acceptable to the international trading community and render it compatible with the General Agreement.
Conclusions

26. There was wide sympathy in the Working Party for the view that the purposes and objectives of the Convention were in line with those embodied in the General Agreement including Part IV inasmuch as the Convention aimed at improving the standards of living and economic development of a significant number of less-developed countries including a number of the least-developed among them. The parties to the Convention supported by some members of the Working Party stated that the trade commitments in the Convention were compatible with the relevant provisions of the General Agreement taken as a whole. Some other members who took part in the discussions considered it doubtful that the Convention was compatible with the legal requirements of the General Agreement. One member of the Working Party suggested that information on further developments in the course of the periodic reports might serve to establish its compatibility with the General Agreement and that the contracting parties might await such reports.