

- (c) the implementation of relevant international maritime instruments related to the safety of shipping and the prevention of vessel source pollution; and
- (d) encouraging improved efficiency in ports and in related services to reduce maritime transportation costs.

Article 141

Special Status Of The Caribbean Sea

The Member States shall co-operate in achieving international recognition for the Caribbean Sea as a Special Area requiring protection from the potentially harmful effects of the transit of nuclear and other hazardous wastes, dumping, pollution by oil or by any other substance carried by sea or wastes generated through the conduct of ship operations.

CHAPTER SEVEN: DISADVANTAGED COUNTRIES, REGIONS AND SECTORS

PART ONE: PRELIMINARY

Article 142

Scope Of Application

1. The provisions of this Chapter shall have effect for the purpose of establishing a regime for disadvantaged countries, regions or sectors within the framework of the Treaty as well as a special regime for the Less Developed Countries in order to enhance their prospects for successful competition within the Community, and redress, to the extent possible, any negative impact of the establishment of the CSME.
2. As soon as practicable after the entry into force of this Treaty, the Conference shall, on the recommendation of the Community Council and in accordance with Article 1, designate disadvantaged countries, regions and sectors and may, from time to time, make such further designations or terminate such designations as circumstances warrant.
3. Wherever in this Treaty reference is made to disadvantaged countries, regions and sectors or to the Less Developed Countries, the Organs of the Community shall take the measures required to give effect to the spirit and intent of this Chapter.

Article 143

Objective Of The Regimes

1. The objective of the regimes mentioned in Article 142 is to assist the disadvantaged countries, regions and sectors towards becoming economically viable and competitive by appropriate interventions of a transitional or temporary nature.
2. The interventions referred to in paragraph 1 of this Article may include:
 - (a) technical and financial assistance to address economic dislocation arising from the operation of the CSME;
 - (b) special measures to attract investment and industries;

- (c) transitional or temporary arrangements to ameliorate or arrest adverse economic and social impact arising from the operation of the CSME;
- (d) special measures to assist industries to become efficient and competitive;
- (e) assistance intended to achieve structural diversification and infrastructural development;
- (f) assistance to economic enterprises disadvantaged by the removal of intraregional barriers;
- (g) the establishment of mechanisms to monitor, and assist in the discharge of obligations assumed under the Treaty and other international trade agreements.

Article 144

Implementation Of Measures

Subject to the authority of the Conference, COTED and COFAP, as appropriate, shall establish, administer and monitor the measures identified in Article 143.

Article 145

Review Of Measures

1. The Community Council shall review, as appropriate, the effectiveness of measures taken pursuant to this Chapter and take such action as may be necessary to achieve the objective set out in Article 143, and shall submit a report thereon to the Conference.
2. The review shall include an examination of relevant programmes and support measures in order to determine their efficacy as a basis for their termination or modification as the case may be.

PART TWO: REGIME FOR DISADVANTAGED COUNTRIES, REGIONS AND SECTORS

Article 146

Measures To Redress Disadvantage Arising From Economic Dislocation

1. The Member States agree that where economic dislocation arising from the operation of the CSME occurs, and notwithstanding any provisions to the contrary in this Treaty, COTED may, as the case may require on a temporary basis and subject to Article 144, adopt effective measures to arrest or mitigate adverse effects on economic activity. Such measures may include the grant of incentives to address the dislocation and shall be without prejudice to any incentives provided for in Articles 52 and 69.
2. Notwithstanding any provisions to the contrary in this Treaty, the measures mentioned in this Article may, where necessary, provide for temporary derogations from rights and obligations set out in the Treaty.
3. COTED shall periodically examine the impact of the measures mentioned in paragraph 2 with a view to determining their adequacy and establishing a time-frame for their discontinuance.

4. The Member States shall co-operate with the Community Organs in implementing the measures mentioned in paragraph 2 of this Article and shall take the action required to secure compliance therewith.

Article 147

Promotion Of Investment

COFAP shall promote investment in disadvantaged countries by, *inter alia*, facilitating:

- (a) the establishment of joint ventures among nationals of disadvantaged countries as well as between nationals of disadvantaged countries and nationals of other Member States;
- (b) the establishment of joint ventures between nationals of disadvantaged countries and nationals of third countries;
- (c) investment for economic diversification including diversification of the agricultural sector;
- (d) research, development and the transfer of technology in the development of disadvantaged countries; and
- (e) capital flows from other Member States to disadvantaged countries through the conclusion of double taxation agreements and appropriate policy instruments.

Article 148

Measures Relating To The Services Sector

1. COTED, in establishing the programme for removal of restrictions by Member States on the provision of services in the Community mentioned in paragraph 2 of Article 37 shall give due consideration to the peculiar economic vulnerability of disadvantaged countries, bearing in mind Article 49.

2. Without prejudice to the generality of the provisions set out in paragraph 1 of this Article, COTED shall, in establishing the said programme, determine in respect of disadvantaged countries:

- (a) a list of services in respect of which national treatment may not be applied for a specified period of time;
- (b) the manner in which restrictions on services not mentioned in sub-paragraph (a) of this paragraph shall be removed:

Provided that such disadvantaged countries shall accord the Member States rights no more restrictive than those accorded to other parties of the WTO under the General Agreement on Trade in Services (GATS).

Article 149

Measures Relating To The Right Of Establishment

1. COTED shall take appropriate measures to ensure that, in establishing the programme for the removal of restrictions by the Member States on the right of establishment in the Community

mentioned in paragraph 3 of Article 33, the peculiar economic vulnerability of disadvantaged countries in the Community is taken into account, bearing in mind Article 49.

2. Without prejudice to the generality of the provisions of paragraph 1 of this Article, COTED shall, in establishing the said programme, determine in respect of disadvantaged countries:

- (a) a list of economic activities in respect of which national treatment may not be accorded to persons exercising the right of establishment for a specified period of time;
- (b) the manner in which restrictions on the right of establishment in respect of economic activities not mentioned in sub-paragraph (a) of this paragraph shall be removed:

Provided that such disadvantaged countries shall accord to the Member States rights of establishment no more restrictive than those accorded to third States.

Article 150

Safeguard Measures

1. Where, in accordance with paragraph 1 of Article 92, a disadvantaged country establishes an entitlement to limit imports of goods from other Member States, then, notwithstanding any other provisions to the contrary in this Treaty, the disadvantaged country may limit such imports for a period of up to three (3) years unless COTED authorises the limitation for a longer period and take such other measures as COTED may authorise.

2. A disadvantaged country applying restrictions in accordance with paragraph 1 of this Article shall notify them to COTED, if possible, before they come into force. COTED may, at any time, consider those restrictions and shall, in light of such consideration, make recommendations designed to moderate any damaging effect of such restrictions or to assist the disadvantaged country to overcome its difficulties.

3. Nothing in this Treaty shall be construed as entitling any Member State to apply safeguard measures against the products of Community origin of a disadvantaged country where such products do not exceed 20 per cent of the market of the importing Member State.

Article 151

Support For Sensitive Industries

1. COTED may authorise a Member State having a sensitive industry which can be disadvantaged by the operation of the CSME to suspend Community treatment to products of other Member States.

2. The suspension authorised in paragraph 1 of this Article shall be granted upon application to COTED in that behalf where the applicant establishes that the product is from a sensitive industry.

3. For the purpose of this Article, an industry may be considered to be sensitive by reason of its vulnerable nature and:

- (a) the significance of its contribution to, *inter alia*:
 - (i) Gross Domestic Product;
 - (ii) employment;

- (iii) foreign exchange earnings; or
 - (b) its designation as vital within the national industrial policy.
- 4. Notwithstanding any other provisions of this Treaty, a disadvantaged country may, for the period of suspension decided upon by COTED, suspend Community treatment in respect of imports of like description from the Member State granted the suspension.
- 5. COTED, in authorising the suspension mentioned in paragraph 1 of this Article may impose terms and conditions for the grant of the suspension.
- 6. COTED shall monitor the progress of the industry concerned and undertake a periodic review.

Article 152

Public Undertakings

Notwithstanding any provisions to the contrary in this Treaty, disadvantaged countries may, with the prior approval of COTED, maintain, in respect of public undertakings, measures, the effect of which is to afford support to domestic production where such measures are in the form of:

- (a) a duty or charge having equivalent effect; or
- (b) quantitative restrictions.

Article 153

Use Of Technological And Research Facilities In Member States

- 1. The Member States undertake to provide opportunities for access to their technological and research facilities by nationals of disadvantaged countries.
- 2. COTED shall encourage close collaboration between research institutions and facilities located in disadvantaged countries with others located in other Member States.

Article 154

Promotion Of Development

- 1. COTED shall promote the establishment of infrastructure in a disadvantaged country, region or sector to encourage or stimulate economic activity.
- 2. COTED may also adopt measures for the establishment of new industries or for the retooling or expansion of existing industries in a disadvantaged country, region or sector.

Article 155

Special Provisions For Guyana

Notwithstanding any provisions to the contrary in this Treaty, Guyana shall be allowed, for as long as it continues to benefit from wheat imports under PL 480 Agreements with the United States of America, to impose quantitative restrictions on the importation of wheat flour.

Article 156

Application Of The Special Regime To Highly- Indebted Poor Countries

COTED shall to the extent necessary and for a period to be determined, apply the provisions of the Special Regime for the less developed countries to Highly-Indebted Poor Countries.

Article 157

Technical And Financial Assistance

1. As soon as practicable after the entry into force of this Treaty, the Community Council shall, in collaboration with other competent Organs of the Community, make adequate arrangements to extend to disadvantaged countries, regions and sectors such technical and financial assistance as may be required to allow them to participate effectively in the GSME and to administer international trade agreements.

2. Pursuant to paragraph 1 of this Article, COTED shall evaluate the need for technical and financial assistance to disadvantaged countries, regions and sectors, and promote and facilitate appropriate programmes and projects. Such assistance may include:

- (a) grants or access to low-cost financing;
- (b) preparation of project proposals for financing;
- (c) performance guarantees and other guarantees to enterprises;
- (d) accessing technology including information technology;
- (e) product design or quality enhancement;
- (f) factory design and market development.

3. Technical assistance within the meaning of this Article may also include:

- (a) assistance to establish or upgrade national standardising bodies;
- (b) assistance to countries to advance their diversification programmes;
- (c) professional assistance in meeting obligations under trade-related agreements;
- (d) assistance to establish institutions or centres for the training or retraining of employees as the case may require;
- (e) provision of relevant expertise to formulate a legal policy framework conducive to fair trading and fair competition;
- (f) professional expertise in espousing and defending claims arising in connection with the WTO Agreement and other trade-related agreements;
- (g) professional assistance in preparing for disputes resolution arising in connection with trade-related agreements;
- (h) professional assistance in preparing legislation.

4. The evaluation mentioned in paragraph 2 of this Article may be undertaken by COTED on its own initiative, or in response to an application for assistance issuing from a Member State.

5. COTED shall, from time to time, examine the impact of the measures mentioned in paragraph 2 with a view to determining their adequacy and establishing a time-frame for their discontinuance.

Article 158

The Development Fund

1. There is hereby established a Development Fund for the purpose of providing financial or technical assistance to disadvantaged countries, regions and sectors.

2. Subject to the provisions of this Article and relevant provisions of this Treaty, the Community Council, in collaboration with COFAP, shall:

- (a) determine the status, composition and functions of the Development Fund;
- (b) determine the contributions of the Member States to the Development Fund.

3. The Development Fund may accept subventions from public or private sector entities of the Member States or from other entities external to the Community. Subventions shall not be accepted nor applied by the Development Fund on conditions which discriminate against Member States, regions or sectors except in accordance with the provisions of this Treaty.

Article 159

Saving

Nothing in this Chapter shall be construed as disentitling a disadvantaged country, region or sector, being the beneficiary of any other technical assistance programme, from simultaneously benefiting from technical assistance pursuant to the provisions herein set forth.

PART THREE: SPECIAL REGIME FOR LESS DEVELOPED COUNTRIES

Article 160

Import Duties

Where a less developed country has suffered or is likely to suffer loss of revenue as a result of the importation of goods eligible for Community treatment, COTED may, on application made in that behalf by the less developed country, authorise the imposition of import duties on such goods for such time and on such terms and conditions as COTED may decide.

Article 161

Community Origin

The Member States agree that in the determination and operation of the criterion of substantial transformation pursuant to Article 84, the special needs of the less developed countries shall be taken into account.

Article 162

Incentive Regimes

The Member States agree that in the establishment of any programme for incentives in the Community provided for in Article 52 and Article 69, the special needs of the less developed countries shall be taken into account.

Article 163

The Common External Tariff

The Member States agree that in the implementation of the Common External Tariff provided for in Article 82, the special needs of the less developed countries shall be taken into account.

Article 164

Promotion Of Industrial Development

1. Upon application made in that behalf by the less developed countries, COTED may, if necessary, as a temporary measure in order to promote the development of an industry in any of these States, authorise such States to suspend Community origin treatment to any description of imports eligible therefor on grounds of production in one or more less developed countries.
2. COTED may, in taking decisions pursuant to paragraph 1 of this Article, establish terms and conditions including a phasing-out period during which Member States and the Community shall provide support measures and the industry implement the necessary programmes for achieving competitiveness.
3. The grant of authorisation pursuant to paragraph 1 of this Article shall be by means of a decision supported by the affirmative votes of all the less developed countries and at least two of the more developed countries.

Article 165

Public Undertakings

Paragraph 1 of Article 94 shall not apply to the less developed countries.

Article 166

Use Of Technological And Research Facilities

The more developed countries undertake to provide opportunities for the use of their technological and research facilities by the less developed countries.

Article 167

Special Provisions For Belize

Belize shall be allowed to impose import duties or quantitative restrictions on beer and cigarettes produced in the Community for a period ending 31 December 2000.