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## Promotion of investments under Yaounde II

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pean market has been formally organised by a "Marktordnung", and of those which might affect exports of the original Associate States (AASM) adversely (e.g. coffee, cloves, tinned pineapple). On the other hand, East African states may protect their young industries and draw fiscal revenues through tariffs and import quotas.

### Prospects of Association Policies

In spite of all criticism—also that originating with AASM<sup>12</sup>—all those involved have agreed in principle that association as a special form of regional cooperation has proved its worth and should be continued, naturally with reforms to adapt to changes in the outside world and to utilise past experiences. The Association has become a durable alliance in the fields of development and trade policy<sup>13</sup>. The Yaounde Agreement is to terminate on January 1, 1975, and it provides that negotiations for its renewal and extension must start by August 1, 1973, which is 18 months before it lapses. Until that date, it will probably also have become clear what are the effects of the Community's enlargement on existing associations and on rela-

<sup>12</sup> They are afraid of a further dismantling of their trade preferences, which they believe will only be the forerunner of a dissolution of the all-embracing character of the Association.

<sup>13</sup> Cf. G. J a n t z e n, *Integration und Regionalisierung der Internationalen Wirtschaftsbeziehungen (Integration and Regionalisation of International Trade Relations)*; *Hamburger Geographische Studien*, No. 24/1971, p. 50.

tions in general between the EEC and developing countries.

After the UK has joined the Common Market, the problem of EEC relations with the African states of the British Commonwealth will have to be considered<sup>14</sup>. The Community offers them three alternatives:

- accession to the Association under the Yaounde Agreement which will have been renewed after January 1, 1975;
- forming a new and special association with mainly mutual trade obligations, or
- the conclusion of a trade agreement to facilitate and increase exchanges of goods with the Community.

As to British dependent territories (except Gibraltar and Hong Kong), it has already been agreed that there is, on principle, nothing to be said against their association with the enlarged Community under Part IV of the Rome Treaty. No matter what the countries involved will decide in the end, and how all the unsolved problems will be overcome, the Community's responsibility towards LDCs is bound to become much greater.

<sup>14</sup> They are Botswana, Gambia, Ghana, Kenya, Lesotho, Malawi, Mauritius, Nigeria, Zambia, Sierra Leone, Swaziland, Tanzania, and Uganda. Of these, Kenya, Tanzania, and Uganda have already made an agreement with the EEC.

## Promotion of Investments under Yaounde II

by Dr Heinz Langerbein, Bonn \*

**There are many companies operating within the Common Market to whom the highly favourable conditions for making investments in many African countries, which exist under the Yaounde Agreement, are not known. In the following article the possibilities offered to private investors by Yaounde II for facilitating their ventures are discussed.**

**T**he European Economic Community (EEC) and the Associated African States and Madagascar (AASM) that are associate members of the EEC have jointly concluded a new agreement on economic development and cooperation, which came into force on January 1, 1971. Like the first of these conventions, this second one has been signed in Yaounde and it is therefore generally known as the Second Yaounde Agreement, or Yaounde II. It is striking that the new convention is geared mainly to fostering and supporting private economic

initiatives. There is probably not another agreement on international aid which contains so many enabling clauses for making private investment attractive and supplying it with new incentives. The fact that private entrepreneurs know so little about this is, without doubt, mainly due to the, often bewildering, complexity of Yaounde II, which exceeds even that of the, already highly involved, Yaounde I Agreement.

However, by delving into the details of the new agreement, as far as they touch the interests of investors, the new prospects become immediately

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clear, e.g. in Article 1, Paragraph 2. Yaounde II: "Through this Agreement, the High Contracting Parties intend to develop their mutual economic ties, to strengthen the economic structure and economic independence of the Associated States, to promote their industrialisation, to favour regional cooperation in Africa, and to contribute to further expansion of world trade." To achieve these aims, the Agreement contains provisions for measures to promote trade, financial incentives for investments, and specially favoured conditions for investors who are residents of EEC states.

### Trade Preferences

Under Yaounde II, the EEC and each individual one of the 18 AASM members are included in a free trade zone — but free trade has not been established between the AASM members themselves. This means that trade between members of the EEC and the AASM is, on principle, duty-free and untrammelled by import quotas, though with permissible exceptions. Thus, all farm produce for which the EEC has established a regulated market (Agrarmarktordnung) is subject to such special treatment, though also this treatment is preferential, relative to farm imports to EEC countries from third-party areas.

Conversely, no EEC product which is shipped to an AASM country is specifically singled out for discriminatory treatment by the Agreement, but AASM governments are permitted (under Article 7, Paragraph 2, of Yaounde II) "for purposes of their economic development, or in cases of balance-of-payments difficulties", and (under Article 3, Paragraph 2) "for budgetary and fiscal purposes", to retain or introduce tariffs or quantitative controls affecting imports from EEC countries. However, in doing so, they are bound to observe the following mandatory rules:

If obstacles in the way of trade are retained or introduced, AASM governments must enter into— or the Council can institute by request—consultations within the highest authority established under the Agreement, which is the Council of Association.

No discrimination, as between individual EEC states, is permissible in AASM states trading with the EEC.

By and large, it can be stated that AASM governments have been eager to meet these and other obligations under the Agreement. But conditions for imports are highly diverse, from one country and one type of goods to another, and therefore, it will always be advisable to make timely enquiries before business decisions be made.

Yaounde II contains no fewer than ten articles (31–40) which deal with the right of individuals and companies settling on EEC and AASM territories, with service contracts, with international payments, and capital imports and exports. Under Article 31, Paragraph 1, of Yaounde II, it is not permitted "to discriminate either de jure or de facto against nationals or companies normally resident in member states of the EEC". On the other hand, there is no preferential treatment of EEC nationals or companies, relative to AASM nationals or organisations, but they must not be treated worse than nationals or companies from third party countries (exceptions being made in cases of regional agreements)<sup>1</sup>.

### Financial Incentives for Investments

Under Article 38, Yaounde II, during the entire period for which loans are made or risk capital is tied down, "the Associated States pledge themselves to make available to debtors sufficient foreign currency for meeting the payment of interest, commissions, and redemption rates . . . required for the servicing of loans and advances that have been made for financing projects on Associated States' territories".

According to Article 39, Paragraph 1, the Associated States will make every effort "to introduce liberal currency regulations for investments and for current payments that are required in connection with capital transfers to be made for the purpose of such payments by persons resident in Member States". Article 39, Paragraph 2, states: "The Associated States will treat nationals and companies from Member States as having equal rights in regard to their investments and to the capital transfers flowing from these."

As can be seen from this survey, there is considerable width of scope for individual governments as to treatment of these problems. Therefore, it is always advisable to make early enquiries

<sup>1</sup> A declaration of the AASM which interprets this Article of the Agreement, and which was agreed to by all EEC members, goes even further:

(i) The Associated States favour the settlement of nationals and companies from member states in their own territories in all cases in which it appears necessary to employ for a purpose other ones than their own nationals or companies resident on their territory;

(ii) The Associated States will grant most-favoured treatment to nationals and companies from member states as to access to professional and vocational work and its pursuit, especially in their relations with public authorities, agencies, and professional organisations;

(iii) The Associated States will facilitate the issue of visa, residential permits, aliens registration certificates, permits of entry and departure to all nationals of member states. The Associated States will on principle not discriminate in levying fees for these permits and public services;

(iv) Member States, on the territories under their jurisdiction, will facilitate the registration and formation of companies serving or facilitating marketing of products of the Associated States." Cf. Document P.C./97/69 (min. 37), Appendix VI.

about actual rules and regulations in each African state, in the case of an individual project.

The EEC intends to make available to AASM states, together with the Overseas Countries and Territories (OCT), the considerable sum of US\$ 1 bn, over the period Jan. 1, 1971, to Jan. 31, 1975, in order "to share the cost of suitable measures for fostering the economic and social development of the Associated States (and OCT), and thus supplement the own efforts of these states" (Article 17, Yaounde II).

#### Favoured Branches of the Economy

In practice, there is no part of the economy which may not benefit from this aid, but it is intended to focus help on the following branches:

- industry;
- tourism;
- agriculture;
- infrastructure;
- commerce and trade.

Funds will be made available both for actual investments and for channelling know-how (technical aid) to AASM and OCT areas, as long as such know-how is needed for clearly circumscribed projects. Technical aid will be offered either in connection with capital investment or independently of it. Protocol No. 6 contains in Article No. 2 a list of typical (hypothetical) projects, which may attract both investment aid and technical aid, as follows:

- programming, and specialised and regional development studies;
- technical, economic, and commercial investigations which may be needed for finalising projects, and also research work and preliminary planning work required for them;
- assistance in collecting documentation;
- assistance in carrying-out and supervising construction work;
- temporary aid for supplying, constructing, and putting into operation, as well as operating, individual investment projects or the totality of required equipment, and—as far as needed—training of staff which is to operate and maintain a given investment and/or equipment;
- temporary payments for technicians' salaries and maintenance, and for acquiring consumption goods which are needed for smooth execution of an investment project.

Over and above all this, there is, under Article 25, Paragraph 1 (a), of Yaounde II the possibility to make grants (in exceptional cases also to private

businesses) to enterprises which are training more skilled staff than can be employed by them. Technical aid which is not connected with investments may consist of professional and vocational education and training, or of studies about the situation and structure of given national economies, of one of its sectors, or of a single product. It is also possible to finance the promotion of marketing (e.g. trade fairs).

#### Different Methods of Financing

All technical aid is financed by grants-in-aid, whilst investments, depending on economic conditions in the recipient country, may be financed by the following methods:

- normal European Investment Bank (EIB) loans;
- normal loans, but at reduced rates of interest, for which general or individual support is given by the European Development Fund (EDF);
- special-condition loans from EDF funds;
- contributions to mobilising risk capital;
- grants-in-aid.

There are two major criteria for financing which will determine the method used: prospective profitability of the project, and the ability of the recipient country to raise and service loans. The lower these two indicator values are, the "softer" the conditions of financing will be. The effect is that the same type of project will be supported in vastly different ways, depending on the regional situation and prospective profitability of the project. It has been laid down that help will be granted only for a finite period, not indefinitely.

#### European Investment Bank Loans

Normal loans from the European Investment Bank's own funds will be granted for financing definitely profitable investment prospects in countries which are not heavily indebted. In such cases, interest is at the usual rate pertaining to European capital markets, which at present stands at 8.5 p.c. Such loans are made for no more than 25 years. Collateral security is required, as banks usually get, and if necessary, also a government guarantee of the state where investment takes place. The European Investment Bank takes on exclusively "peak-shaving" finance<sup>2</sup>.

Where prospective profitability of a project is somewhat lower, or where it is intended to create special incentives for developing a given region, or of a

<sup>2</sup> Under the Yaounde I Agreement, EIB issued normal loans for altogether 15 projects in the following countries and territories: Ivory Coast, the Cameroons, Brazzaville-Congo, Gabon, Mauritania, Senegal, and New Caledonia. These loans are running for between 7 and 17½ years.

particular sector of the economy, bank loans may be made cheaper through interest subsidies, and the Agreement makes a difference between overall subsidies and those which have been fixed for an individual case. In both cases, the rate of interest payable by the final debtor will not drop below 3 p.c. The subsidy granted for reducing the interest rate usually amounts to between 2 and 3 p.c. The highest rate of interest subsidy will be granted to territories or countries whose rate of industrialisation is low, or which are situated at a great distance from ocean ports. Independently of geographical location, the same principle is applied to investments for promoting tourism.

Projects of lower prospective profitability, with a long period required for maturing, or with a greater risk factor for investments, may be financed by specially-favoured conditions for loans. Such projects will usually serve the improvement of the infrastructure, farming, or development in areas which are economically little advanced. But also in these cases, the condition is that the beneficiary country is able to accept and service a loan. However, it may be argued that an intended investment could enable a given national economy to raise more loans. In these cases, there is no fixed rate of interest. The maximum period for which special loans may be granted is 40 years, and redemption payments may be waived for the first 10 years<sup>3</sup>. There is no hard and fast rule about the share which a special loan may contribute to the total cost of a project.

The Yaounde II Agreement enables the EEC for the first time to give aid for finding risk capital for "enterprises which are to be operated according to industrial and commercial principles". This need not be risk capital in the strictly legal sense, for this facility includes credits, for which the period, during which no repayment will be made, is so long, or whose redemption is subject to special conditions, so that they, in fact, resemble share capital. The EEC is only permitted to acquire a minority interest, and such an interest is not to be of a permanent nature. This means that participation is intended to serve as a kind of pump-priming, which makes it certain that active help by the EEC ensures that a given project gets started. After initial risks have been overcome, the intention is to find other partners to take over the EEC interest, so as to release the Community from its engagement. Apart from technical aid, grants-in-aid may also be used for subsidising investments. States which have little capability of raising and servicing loans may thus benefit through investments be-

<sup>3</sup> Under the Yaounde I Agreement, 15 special loans were made, and their rates of interest were between 1 and 3 p.c. They were granted for periods between 17 and 40 years, and repayments were excused for initial periods of between 3½ and 10 years.

ing financed by EEC grants, provided that these states' ability to raise loans cannot even be raised in the medium term through the given investment. Other indispensable conditions for granting such aid are the economic profitability of the project so favoured, and usually also the assurance that it is likely to have an impact on wide circles of the population. Primarily, this is true of investments in economic and social infrastructure, agriculture, but perhaps also in small-scale craft workshops and small industrial firms.

### Use of Aid

Normal EIB loans, interest-reduced loans, and special EDF loans do not know any restrictions as to type of debtor. Risk capital will only be provided for enterprises "conducted according to industrial and commercial principles". Grants-in-aid are available as technical aid to private firms<sup>4</sup> only under the following conditions:

when they train more skilled staff than they themselves can employ;

if such aid serves measures, such as defined in Article 2, Protocol No. 6 supplementing the Yaounde Agreement, as "additional technical aid", e.g. feasibility studies, project studies, "temporary cover for the cost of technicians or supply of consumption goods, which are required for a smooth running of an investment project".

Businessmen who desire to obtain supplementary finance from EEC for projects in one of the AASM states have to submit their applications to the EEC Commission and/or the European Investment Bank through the government of the AASM state involved, but they themselves may apply also directly to the EEC authorities. Yet in the latter case the AASM government involved must agree to the submission. The EIB is the right place for receiving and processing applications for normal loans, interest-reduced loans, and contributions to share capital<sup>5</sup>.

Processing applications for other types of financing (which have been described above), the Commission of the European Community takes responsibility<sup>6</sup>. The two institutions have the duty to inform each other about all enquiries and applications reaching them. As soon as an application has been received, the EIB and the Commission jointly examine the case in order to decide which kind (or kinds) of finance will be best suited for it.

<sup>4</sup> Only companies registered under local law of an Associated State are eligible.

<sup>5</sup> European Investment Bank, Credit Department for Associated Countries, 2, Place de Metz, Luxembourg.

<sup>6</sup> Commission of the European Communities, General Directorate for Development Aid, Directorate of the European Development Fund, 200, Rue de la Loi, Brussels, Belgium.