

## EDITORIAL COMMENTS

### *Lomé III and Human Rights*

Among the issues which remain to be settled before the new Convention between the ACP countries and the EEC can be signed in Lomé on 7 December 1984, few are as politically sensitive as the matter of the inclusion of a reference to human rights in the Convention. The Community and the ACP are in agreement that the new Convention should strengthen efforts to create conditions under which the ACP are able to fully realize their own potential. This requires the promotion of respect for the full range of human rights, including, in addition to civil and political rights, the right to economic, social and cultural development. However, whilst the Community wishes the ACP to reaffirm their commitment to human rights explicitly in the Convention, the ACP feel that they have expressed such commitment many times in other declarations and that the Lomé Convention is not an appropriate instrument for the expression and implementation of this concept.

Obviously, the reason why the ACP are reticent about endorsing a reference to human rights in the Convention is their fear that a human rights focus in the Convention could lend itself to being perceived as an element of conditionality in the granting of aid. They argue that criticism of specific human rights violations constitutes interference in the internal political affairs of a State and that development assistance may not amount to interference in the determination of a State's domestic economic and social priorities.

For its part the Community has made it clear that it wishes to adopt an approach which lies between the two extremes of inadmissible interference on the one hand and indifference to gross human rights violations on the other. From the start of the negotiations the Community has emphasized that the Convention does not call into question each country's right to define its own priorities and to adapt its co-operation with the EEC to suit its own economic, social and political situation. However, since the Convention aims to promote economic and social development and to provide scope for the people's human capacities

and well-being, it is entirely justified that the link between these objectives and the notion of respect for the dignity and the worth of the human person receives a degree of entrenchment in the Convention itself. The EEC has no wish to impose its conception of human rights on the ACP but it attaches paramount importance to the recognition of human dignity as an essential principle of development co-operation. This concept of human dignity embraces more than the "right to development" and the fact that the ACP wanted to place this right at the centre of the debate, in the words of Mr. Pisani "cannot constitute a pretext for remaining silent about the other human rights."<sup>1</sup>

As far as can now be ascertained, the negotiations on an appropriate human rights formula have not extended to the question what mechanisms or procedures should be established for dealing with situations in which the continued provision of aid under the Convention would lead to complicity of the Community in a consistent pattern of human rights violations. Neither is there any indication that the proposals made by the Commission in its Memorandum of February 1978<sup>2</sup> have been the subject of renewed discussions. This memorandum suggested the creation of a link between financial and trade advantages offered by the Communities to developing countries and the observance by these countries of certain basic international labour standards, relating to hours and conditions of work, which have been embodied in Conventions of the International Labour Organisation. Obviously such an approach raises problems of such complexity that neither the ACP nor the EEC have thought it advisable to explore its potential value for the promotion of social and economic rights within the framework of the Lomé Convention.

By the end of October 1984 the negotiations on the different chapters of the new Convention were finished, except for the problem of the amount of the Community's financial assistance. It is probable that one

1. *Agence Europe* no. 3775, 26 January 1984, p. 13.

2. Commission of the EC, *Development Co-operation and the observance of certain international standards governing working conditions*, Doc. Com (78) 47 final (16 February 1978). See, for a commentary on this memorandum, P. Alston, "Linking Trade and Human Rights", 23 *German Yearbook of International Law* (1980), pp. 226-158, at p. 139 *et seq.*

of the general provisions in Part I of the Convention will incorporate a reference to human rights. Indeed, the ACP seem to have dropped their objections to a general article drafted along the lines initially suggested by the Community. This article will state that the ACP-EEC co-operation is aimed at encouraging social and economic progress in the ACP countries for the well-being of their populations and that this shall be founded on the need to satisfy their basic needs, to recognize the role of women, to make full use of human potential and to respect human dignity. No doubt, further references to the concept of human dignity will be made in (unilateral) declarations at the ceremony of signature.

All in all, the fact that human dignity is explicitly included among the basic principles of ACP/EEC co-operation may be termed progress. However, it has not proven possible to reach joint agreement on mechanisms and procedures for dealing specifically with cases in which the occurrence of gross violations of human rights prompts the Community to reconsider its position vis-à-vis countries where the rule of an oppressive regime threatens to frustrate the objectives of the development co-operation. If the Lomé Convention is to be a model for North-South Co-operation, mutually agreed substantive provisions and institutional machinery for strengthening respect for human rights in the area of trade and aid policies cannot be dispensed with.