II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 28 September 1976

on the notification of the provisional application by the European Economic Community of the International Cocoa Agreement 1975

(76/870/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Article 113 thereof,

Having regard to the recommendation from the Commission,

Whereas the Community is participating in the International Cocoa Agreement 1972;

Whereas, in accordance with the Council Decision of 20 July 1976, the Community signed the International Cocoa Agreement 1975, on 27 July 1976, subject to the conclusion thereof;

Whereas the Community should give notification that it will apply the Agreement provisionally pending completion of the internal procedures necessary for the conclusion thereof,

HAS DECIDED AS FOLLOWS:

Article 1

In accordance with Article 68 of the International Cocoa Agreement 1975, the Community will deposit with the Secretary-General of the United Nations Organization before 30 September 1976 the notification annexed to this Decision stating that it will apply the Agreement provisionally, as an importing member, when the Agreement enters into force in accordance with Article 69.

The text of the Agreement is annexed to this Decision.

Article 2

The President of the Council is hereby authorized to designate the person empowered to deposit this notification [1].

Done at Brussels, 28 September 1976.

For the Council

The President

M. van der STOEL

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[1] The date from which the Agreement will be applied provisionally will be published in the *Official Journal of the European Communities.*

ANNEX I

Notification of provisional application of the International Cocoa Agreement 1975

In accordance with Article 68 of the International Cocoa Agreement 1975, the European Economic Community hereby deposits this notification of the provisional application thereof. In giving this notification the Community will consider itself provisionally an importing member of the said Agreement, with all the rights and obligations arising therefrom, when the Agreement enters into force in accordance with Article 69 and until the date on which the Decision concluding the Agreement is deposited by the Council of the European Communities.

ANNEX II

INTERNATIONAL COCOA AGREEMENT 1975

CHAPTER I

OBJECTIVES

Article 1

Objectives

The objectives of this Agreement take into account the recommendations as contained in the Final Act of the first session of the United Nations Conference on Trade and Development and are:

(a) To alleviate serious economic difficulties which would persist if adjustment between the production and consumption of cocoa cannot be effected by normal market forces alone as rapidly as circumstances require;

(b) To prevent excessive fluctuations in the price of cocoa which affect adversely the long-term interests of both producers and consumers;

(c) To make arrangements which will help stabilize and increase the earnings from the exports of cocoa of producing member countries thereby helping to provide the necessary incentive for a dynamic and rising rate of production and provide such countries with resources for accelerated economic growth and social development, while at the same time taking into account the interests of consumers in importing member countries, in particular the need to increase consumption;

(d) To assure adequate supplies at reasonable prices, equitable to producers and consumers; and

(e) To facilitate expansion of consumption and, if necessary and in so far as possible, an adjustment of production, so as to secure an equilibrium in the long term between supply and demand.

CHAPTER II

DEFINITIONS

Article 2

Definitions

For the purposes of this Agreement:

(a) *Cocoa* means cocoa beans and cocoa products;

(b) *Cocoa products* means products made exclusively from cocoa beans, such as cocoa paste, cocoa butter, unsweetened cocoa powder, cocoa cake and cocoa nibs as well as such other products containing cocoa as the Council may determine if necessary;

(c) *Fine or flavour cocoa* means cocoa produced in the countries listed in Annex C to the extent specified therein;

(d) *Tonne* means the metric ton of 1 000 kilogrammes or 2204·6 pounds; and pound means 453·597 grammes;

(e) *Crop year* means the period of 12 months from 1 October to 30 September inclusive;

(f) *Quota year* means the period of 12 months from 1 October to 30 September inclusive;

(g) *Basic quota* means the quota determined in accordance with Article 30;

(h) *Annual export quota* means the quota of each exporting member as determined under Article 31;

(i) *Export quota in effect* means the quota of each exporting member, at any given time, as determined under Article 31, or as adjusted under Article 34, or as reduced under paragraphs 4, 5 and 6 of Article 35, or as may be affected under the provisions of Article 36;

(j) *Export of cocoa* means any cocoa which leaves the customs territory of any country; and *import of cocoa* means any cocoa which enters the customs territory of any country; provided that, for the purposes of these definitions customs

territory shall, in the case of a member which comprises more than one customs territory, be deemed to refer to the combined customs territories of that member;

(k) *Organization* means the International Cocoa Organization referred to in Article 5;

(l) *Council* means the international Cocoa Council referred to in Article 6;

(m) *Member* means a contracting party to this Agreement, including a contracting party as referred to in Article 3 (2), or a territory or a group of territories in respect of which a notification has been made in accordance with Article 71 (2), or an intergovernmental organization as provided for in Article 4;

(n) *Exporting country* or *exporting member* means a country or a member respectively whose exports of cocoa expressed in terms of beans exceed its imports;

(o) *Importing country* or *importing member* means a country or a member respectively whose imports of cocoa expressed in terms of beans exceed its exports;

(p) *Producing country* or *producing member* means a country or member respectively which grows cocoa in commercially significant quantities;

(q) *Simple distributed majority vote* means a majority of the votes cast by exporting members and a majority of the votes cast by importing members, counted separately;

(r) *Special vote* means two-thirds of the votes cast by exporting members and two-thirds of the votes cast by importing members, counted separately, on condition that the number of votes thus expressed represents at least half the present and voting members;

(s) *Entry into force* means, except when qualified, the date on which this Agreement first enters into force, whether provisionally or definitively.

CHAPTER III

MEMBERSHIP

Article 3

Membership in the Organization

1. Each contracting party shall constitute a single member of the Organization, except as otherwise provided in paragraph 2.

2. If any contracting party, including the territories for whose international relations it is for the time being ultimately responsible and to which this Agreement is extended in accordance with paragraph 1 of Article 71, consists of one or more units that would individually constitute an exporting member and of one or more units that would individually constitute an importing member, there may be either a joint membership for the contracting party together with these territories or, where the contracting party has made a notification to that effect under Article 71 (2), separate membership, singly, all together or in groups, for the territories that would individually constitute an exporting member, and separate membership, singly, all together or in groups, for the territories that would individually constitute an importing member.

3. A member may change its category of membership on such conditions as the Council may establish.

Article 4

Membership by intergovernmental organizations

1. Any reference in this Agreement to a 'Government' shall be construed as including a reference to any intergovernmental organization having responsibilities in respect of the negotiation, conclusion and application of international agreements, in particular commodity agreements. Accordingly, any reference in this Agreement to signature or to deposit of instruments of ratification, acceptance or approval or to notification of provisional application or to accession by a Government shall, in the case of such intergovernmental organizations, be construed as including a reference to signature, or to deposit of instruments of ratification, acceptance or approval, or to notification of provisional application, or to accession, by such intergovernmental organizations.

2. Such intergovernmental organizations shall not themselves have any votes, but in the case of a vote on matters within their competence, they shall be entitled to cast the votes of their member States and shall cast them collectively. In such cases, the member States of such intergovernmental organizations shall not be entitled to exercise their individual voting rights.

3. The provisions of Article 15 (1) shall not apply to such intergovernmental organizations; but they may participate in the discussions of the Executive Committee on matters within their competence. In

the case of a vote on matters within their competence, the votes that their member States are entitled to cast in the Executive Committee shall be cast collectively by any one of those member States.

CHAPTER IV

ORGANIZATION AND ADMINISTRATION

Article 5

Establishment, headquarters and structure of the International Cocoa Organization

1. The International Cocoa Organization established by the International Cocoa Agreement 1972 shall continue in being to administer the provisions and supervise the operation of this Agreement.

2. The Organization shall function through:

(a) the International Cocoa Council and the Executive Committee;

(b) the Executive Director and the staff.

3. The headquarters of the Organization shall be in London unless the Council by special vote decides otherwise.

Article 6

Composition of the International Cocoa Council

1. The highest authority of the Organization shall be the International Cocoa Council, which shall consist of all the members of the Organization.

2. Each member shall be represented on the Council by a representative and, if it so desires, by one or more alternates. Each member may also appoint one or more advisers to its representative or alternates.

Article 7

Powers and functions of the Council

1. The Council shall exercise all such powers and perform or arrange for the performance of all such functions as are necessary to carry out the express provisions of this Agreement.

2. The Council shall adopt by special vote such rules and regulations as are necessary to carry out the provisions of this Agreement and are consistent therewith, including its rules of procedure and those of its committees, the financial and staff regulations of the Organization and rules for the administration and operation of the buffer stock. The Council may, in its rules of procedure, provide for a procedure whereby it may, without meeting, decide specific questions.

3. The Council shall keep such records as are required to perform its functions under this Agreement, and such other records as it considers appropriate.

4. The Council shall publish an annual report. This report shall cover the annual review for which provision is made in Article 59. The Council shall also publish such other information as it considers appropriate.

Article 8

Chairman and vice-chairmen of the Council

1. The Council shall elect a chairman and a first and a second vice-chairman for each quota year, who shall not be paid by the Organization.

2. Both the chairman and the first vice-chairman shall be elected from among the representatives of the exporting members or from among the representatives of the importing members and the second vice-chairman from among the representatives of the other category. These offices shall alternate each quota year between the two categories of members.

3. In the temporary absence of both the chairman and the two vice-chairmen or the permanent absence of one or more of them, the Council may elect new officers from among the representatives of the exporting members or from among the representatives of the importing members, as appropriate, on a temporary or permanent basis as may be required.

4. Neither the chairman nor any other officer presiding at meetings of the Council shall vote. His

alternate may exercise the voting rights of the member which he represents.

Article 9

Sessions of the Council

1. As a general rule, the Council shall hold one regular session in each half of the quota year.

2. The Council, in addition to meeting in the other circumstances specifically provided for in this Agreement, shall also meet in special session whenever it so decides or at the request of:

(a) any five members; or

(b) a member or members having at least 200 votes;

or

(c) the Executive Committee.

3. Notice of sessions shall be given at least 30 days in advance, except in case of emergency or where the provisions of this Agreement require otherwise.

4. Sessions shall be held at the headquarters of the Organization unless by special vote the Council decides otherwise. If on the invitation of any member the Council meets elsewhere than at the headquarters of the Organization, that member shall pay the additional costs involved.

Article 10

Votes

1. The exporting members shall together hold 1 000 votes and the importing members shall together hold 1 000 votes, distributed within each category of members – that is, exporting and importing members, respectively — in accordance with the following paragraphs of this Article.

2. The votes of exporting members shall be distributed as follows: 100 shall be divided equally among all exporting members to the nearest whole vote for each member; the remaining votes shall be distributed in proportion to their basic quotas.

3. The votes of importing members shall be distributed as follows: 100 shall be divided equally among all importing members to the nearest whole vote for each member; the remaining votes shall be distributed in proportion to their imports as set out in Annex D.

4. No member shall have more than 300 votes. Any votes above this figure arising from the calculations in paragraphs 2 and 3 shall be redistributed among the other members on the basis of paragraphs 2 and 3 respectively.

5. When the membership in the Organization changes or when the voting rights of a member are suspended or restored under any provision of this Agreement, the Council shall provide for the redistribution of votes in accordance with this Article.

6. There shall be no fractional votes.

Article 11

Voting procedure of the Council

1. Each member shall be entitled to cast the number of votes it holds and no member shall be entitled to divide its votes. A member may, however, cast differently from such votes any votes which it is authorized to cast under paragraph 2.

2. By written notification to the Chairman of the Council, any exporting member may authorize any other exporting member, and any importing member may authorize any other importing member, to represent its interests and to cast its votes at any meeting of the Council. In this case the limitation provided for in Article 10 (4) shall not apply.

3. Exporting members producing exclusively fine or flavour cocoa shall not take part in voting on matters relating to the establishment and adjustment of quotas and the administration and operation of the buffer stock.

Article 12

Decisions of the Council

1. All decisions of the Council shall be taken, and all recommendations shall be made, by a simple distributed majority vote unless this Agreement provides for a special vote.

2. In arriving at the number of votes necessary for any of the decisions or recommendations of the Council, votes of members abstaining shall not be reckoned.

3. The following procedure shall apply with respect to any action by the Council which under this Agreement requires a special vote:

(a) if the required majority is not obtained because of the negative vote of three or less exporting or three or less importing members, the proposal shall, if the Council so decides by a simple distributed majority vote, be put to a vote again within 48 hours;

(b) if the required majority is again not obtained because of the negative vote of two or less exporting or two or less importing members, the proposal shall, if the Council so decides by a simple distributed majority vote, be put to a vote again within 24 hours;

(c) if the required majority is not obtained in the third vote because of the negative vote cast by one exporting or one importing member, the proposal shall be considered adopted;

(d) if the Council fails to put a proposal to a further vote, it shall be considered rejected.

4. Members undertake to accept as binding all decisions of the Council under the provisions of this Agreement.

Article 13

Cooperation with other organizations

1. The Council shall make whatever arrangements are appropriate for consultation or cooperation with the United Nations and its organs, in particular the United Nations Conference on Trade and Development, and with the Food and Agriculture Organization and such other specialized agencies of the United Nations and intergovernmental organizations as may be appropriate.

2. The Council, bearing in mind the particular role of the United Nations Conference on Trade and Development in international commodity trade, shall, as appropriate, keep that organization informed of its activities and programmes of work.

3. The Council may also make whatever arrangements are appropriate for maintaining effective contact with international organizations of cocoa producers, traders and manufacturers.

Article 14

Admission of observers

1. The Council may invite any non-member that is a member of the United Nations, its specialized agencies or the International Atomic Energy Agency to attend any of its meetings as an observer.

2. The Council may also invite any of the organizations referred to in Article 13 to attend any of its meetings as an observer.

Article 15

Composition of the Executive Committee

1. The Executive Committee shall consist of eight exporting members and eight importing members, provided that if either the number of exporting members or the number of importing members in the organization is 10 or less the Council may, while maintaining parity between the two categories of members, decide by special vote the total number on the Executive Committee. Members of the Executive Committee shall be elected for each quota year in accordance with Article 16 and may be re-elected.

2. Each elected member shall be represented on the Executive Committee by a representative and, if it so desires, by one or more alternates. Each such member may also appoint one or more advisers to its representative or alternates.

3. The chairman and vice-chairman of the Executive Committee, elected for each quota year by the Council, shall both be chosen from among the delegations of the exporting members or from among the delegations of the importing members. These offices shall alternate each quota year between the two categories of members. In the temporary or permanent absence of the chairman and the vice-chairman, the Executive Committee may elect new officers from among the representatives of the exporting members or from among the representatives of the importing members, as appropriate, on a temporary or permanent basis as may be required. Neither the chairman nor any other officer presiding

at meetings of the Executive Committee may vote. His alternate may exercise the voting rights of the member which he represents.

4. The Executive Committee shall meet at the headquarters of the Organization unless by special vote it decides otherwise. If on the invitation of any member the Executive Committee meets elsewhere than at the headquarters of the Organization, that member shall pay the additional costs involved.

Article 16

Election of the Executive Committee

1. The exporting and importing members of the Executive Committee shall be elected in the Council by the exporting and importing members of the Organization respectively. The Election within each category shall be held in accordance with the following paragraphs of this Article.

2. Each member shall cast all the votes to which it is entitled under Article 10 for a single candidate. A member may cast for another candidate any votes which it is authorized to cast under paragraph 2 of Article 11.

3. The candidates receiving the largest number of votes shall be elected.

Article 17

Competence of the Executive Committee

1. The Executive Committee shall be responsible to, and work under the general direction of, the Council.

2. The Executive Committee shall keep the market under continuous review and recommend to the Council such measures as it may consider advisable.

3. Without prejudice to the right of the Council to exercise any of its powers, the Council may, by a simple distributed majority vote or a special vote depending on whether a decision by the Council on the subject requires a simple distributed majority vote or a special vote, delegate to the Executive Committee the exercise of any of its powers, except the following:

(a) redistribution of votes under Article 10;

(b) approval of the administrative budget and assessment of contributions under Article 23;

(c) revision of the minimum and maximum prices under paragraph 2 or 3 of Article 29;

(d) revision of Annex C under Article 33 (3);

(e) determination of annual export quotas under Article 31 and quarterly quotas under Article 35 (8);

(f) restriction or suspension of purchases by the buffer stock under Article 40 (10) (b);

(g) action relating to diversion of cocoa to non-traditional uses under Article 46;

(h) relief from obligations under Article 60;

(i) decision of disputes under Article 62;

(j) suspension of rights under Article 63 (3);

(k) establishment of conditions for accession under Article 67;

(l) exclusion of a member under Article 73;

(m) extension or termination of this Agreement under Article 75;

(n) recommendation of amendments to members under Article 76.

4. The Council may at any time, by a simple distributed majority vote, revoke any delegation of powers to the Executive Committee.

Article 18

Voting procedure and decisions of the Executive Committee

1. Each member of the Executive Committee shall be entitled to cast the number of votes received by it under the provisions of Article 16, and no member of the Executive Committee shall be entitled to divide its votes.

2. Without prejudice to the provisions of paragraph 1 and by written notification to the chairman, any exporting or importing member which is not a member of the Executive Committee and which has not cast its votes under Article 16 (2) for any of the members elected may authorize any exporting

or importing member of the Executive Committee, as appropriate, to represent its interests and to cast its votes in the Executive Committee.

3. In the course of any quota year a member may, after consultation with the member of the Executive Committee for which it voted under Article 16, withdraw its votes from that member. The votes thus withdrawn may be reassigned to another member of the Executive Committee but may not be withdrawn from that member for the remainder of that quota year. The member of the Executive Committee from which the votes have been withdrawn shall nevertheless retain its seat on the Executive Committee for the remainder of that quota year. Any action taken pursuant to the provisions of this paragraph shall become effective after the chairman has been informed in writing thereof.

4. Any decision taken by the Executive Committee shall require the same majority as that decision would require if taken by the Council.

5. Any member shall have the right of appeal to the Council, under such conditions as the Council shall prescribe in its rules of procedure, against any decision of the Executive Committee.

Article 19

Quorum for the Council and the Executive Committee

1. The quorum for the opening meeting of any session of the Council shall be constituted by the presence of a majority of exporting members and a majority of importing members, provided that such members together hold in each category at least two-thirds of the total votes of the members in that category.

2. If there is no quorum in accordance with paragraph 1 on the day appointed for the opening meeting of any session and on the following day, the quorum on the third day and throughout the remainder of the session shall be constituted by the presence of a majority of exporting members and a majority of importing members, provided that such members together hold in each category a simple majority of the total votes of the members in that category.

3. The quorum for meetings subsequent to the opening meeting of any session pursuant to paragraph 1 shall be that prescribed in paragraph 2.

4. Representation in accordance with Article 11 (2) shall be considered as presence.

5. The quorum for any meeting of the Executive Committee shall be prescribed by the Council in the rules of procedure of the Executive Committee.

Article 20

The staff of the Organization

1. The Council, after consulting the Executive Committee, shall appoint the Executive Director by special vote. The terms of appointment of the Executive Director shall be fixed by the Council in the light of those applying to corresponding officials of similar intergovernmental organizations.

2. The Executive Director shall be the chief administrative officer of the Organization and shall be responsible to the Council for the administration and operation of this Agreement in accordance with the decisions of the Council.

3. The Council, after consulting the Executive Committee, shall appoint the Buffer Stock Manager by special vote. The terms of appointment of the Manager shall be fixed by the Council.

4. The Manager shall be responsible to the Council for the functions conferred upon him by this Agreement as well as for such additional functions as the Council may determine. The responsibility for these functions shall be exercised in consultation with the Executive Director.

5. Without prejudice to the provisions of paragraph 4, the staff of the Organization shall be responsible to the Executive Director, who in turn shall be responsible to the Council.

6. The Executive Director shall appoint the staff in accordance with regulations established by the Council. In drawing up such regulations the Council shall have regard to those applying to officials of similar intergovernmental organizations. Staff appointments shall be made in so far as is practicable from nationals of exporting and importing members.

7. Neither the Executive Director nor the Manager, nor any other member of the staff, shall have any financial interest in the cocoa industry, the cocoa trade, cocoa transportation or cocoa publicity.

8. In the performance of their duties, the Executive Director, the Manager and the other members of the staff shall not seek or receive instructions from any member or from any other authority external to the

Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization. Each member undertakes to respect the exclusively international character of the responsibilities of the Executive Director, the Manager and the staff and not to seek to influence them in the discharge of their responsibilities.

CHAPTER V

PRIVILEGES AND IMMUNITIES

Article 21

Privileges and immunities

1. The Organization shall have legal personality. It shall in particular have the capacity to contract, to acquire and dispose of movable and immovable property and to institute legal proceedings.

2. The status, privileges and immunities of the Organization, of its Executive Director, its staff and experts and of representatives of members whilst in the territory of the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as the host Government) for the purpose of exercising their functions, shall continue to be governed by the Headquarters Agreement concluded between the Government of the United Kingdom of Great Britain and Northern Ireland and the International Cocoa Organization in London on 26 March 1975.

3. The Headquarters Agreement referred to in paragraph 2 shall be independent of this Agreement. It shall, however, terminate:

(a) by agreement between the host Government and the Organization, or

(b) in the event of the headquarters of the Organization being moved from the territory of the host Government, or

(c) in the event of the Organization ceasing to exist.

4. The Organization may conclude with one or more other members agreements to be approved by the Council relating to such privileges and immunities as may be necessary for the proper functioning of this Agreement.

CHAPTER VI

FINANCE

Article 22

Finance

1. There shall be kept two accounts — the Administrative Account and the Buffer Stock Account — for the administration and operation of this Agreement.

2. The expenses necessary for the administration and operation of this Agreement, excluding those attributable to the operation and maintenance of the buffer stock instituted under Article 37, shall be brought into the Administrative Account and shall be met by annual contributions from members assessed in accordance with Article 23. If, however, a member requests special services, the Council may require that member to pay for them.

3. Any expenditure which is attributable to the operation and maintenance of the buffer stock under Article 37 (6) shall be brought into the Buffer Stock Account. The liability of the Buffer Stock Account for any expenditure other than that specified in Article 37 (6) shall be decided by the Council.

4. The financial year of the Organization shall be the same as the quota year.

5. The expenses of delegations to the Council, to the Executive Committee and to any of the committees of the Council or of the Executive Committee shall be met by the members concerned.

Article 23

Approval of the Administrative Budget and assessment of contributions

1. During the second half of each financial year, the Council shall approve the administrative budget of the Organization for the following financial year, and shall assess the contribution of each member to that budget.

2. The contribution of each member to the administrative budget for each financial year shall be in the proportion which the number of its votes at the time the administrative budget for that financial year is approved bears to the total votes of

all the members. In assessing contributions, the votes of each member shall be calculated without regard to the suspension of any member's voting rights or any redistribution of votes resulting therefrom.

3. The initial contribution of any member joining the Organization after the entry into force of this Agreement shall be assessed by the Council on the basis of the number of votes to be held by it and the period remaining in the current financial year, but the assessment made upon other members for the current financial year shall not be altered.

Article 24

Payment of contributions to the administrative budget

1. Contributions to the administrative budget for each financial year shall be payable in freely convertible currencies, shall be exempt from foreign exchange restrictions and shall become due on the first day of that financial year.

2. If at the end of five months after the beginning of the financial year a member has not paid its full contribution to the administrative budget, the Executive Director shall request the member to make payment as quickly as possible. If at the expiration of two months after the request of the Executive Director the member has still not paid its contribution, the voting rights of that member in the Council and the Executive Committee shall be suspended until such time as it has made full payment of the contribution.

3. A member whose voting rights have been suspended under paragraph 2 shall not be deprived of any of its other rights or relieved of any of its obligations under this Agreement unless the Council so decides by special vote. It shall remain liable to pay its contribution and to meet any other financial obligations under this Agreement.

Article 25

Audit and publications of accounts

1. As soon as possible, but not later than six months after the close of each financial year, the statement of the Organization's accounts for that financial year and the balance sheet at the close of that financial year under each of the accounts referred to in paragraph 1 of Article 22 shall be audited. The audit shall be carried out by an independent auditor of recognized standing in cooperation with two qualified auditors from member Governments, one from exporting members and one from importing members, to be elected by the Council for each financial year. The auditors from member Governments shall not be paid by the Organization.

2. The terms of appointment of the independent auditor of recognized standing, as well as the intentions and objectives of the audit, shall be laid down in the financial regulations of the Organization. The audited statement of the Organization's accounts and the audited balance sheet shall be presented to the Council at its next regular session for approval.

3. A summary of the audited accounts and balance sheet shall be published.

CHAPTER VII

PRICE, QUOTAS, BUFFER STOCK AND DIVERSION TO NON-TRADITIONAL USES

Article 26

Operation of this Agreement

1. In furthering the objectives of this Agreement, members shall adopt measures for maintaining the price of cocoa beans between agreed prices, and for that purpose and under the control of the Council an export quota system shall be established, a buffer stock arrangement shall be instituted and arrangements shall be made for the diversion non-traditional uses, under strict regulation, of cocoa surplus to quotas and of cocoa beans surplus to the buffer stock.

2. Members shall conduct their trade policies so that the objectives of this Agreement may be attained.

Article 27

Consultation and cooperation with the cocoa industry

1. The Council shall encourage members to seek the views of experts in cocoa matters.

2. In fulfilling their obligations under this Agreement, members shall conduct their activities

in a manner consonant with the established channels of trade and shall take due account of the legitimate interests of the cocoa industry.

3. Members shall not interfere with the arbitration of commercial disputes between cocoa buyers and sellers if contracts cannot be fulfilled because of regulations established in order to implement this Agreement, nor place impediments in the way of the conclusion of arbitration proceedings. The requirement that members comply with the provisions of this Agreement shall not be accepted as grounds for non-fulfilment of contract or as a defence in such cases.

Article 28

Daily price and indicator price

1. For the purposes of this Agreement, the price of cocoa beans shall be determined by reference to a daily price and an indicator price.

2. The daily price shall, subject to paragraph 4, be the average taken daily of the quotations for cocoa beans of the nearest three active future trading months on the New York Cocoa Exchange at noon and on the London Cocoa Terminal Market at closing time. The London prices shall be converted to United States cents per pound by using the current six months forward rate of exchange published in London at closing time. The Council shall decide the method of calculation to be used when the quotations on only one of these two cocoa markets are available or when the London Exchange Market is closed. The time for shift to the next three months' period is the 15th of the month immediately preceding the nearest active maturing month.

3. The indicator price shall be the average of the daily prices over a period of 15 consecutive market days or, for the purposes of Article 34, (2) (c), over a period of 22 consecutive market days. Any reference in this Agreement to the indicator price being at, below or above any figure means that the average of the daily prices over the required period of consecutive market days has been at, below or above that figure. The Council shall adopt rules to implement the provisions of this paragraph.

4. The Council may, by special vote, decide on any other methods of determining the daily price and the indicator price if it considers such methods to be more satisfactory than those set out in paragraphs 2 and 3.

Article 29

Prices

1. For the purpose of this Agreement, a minimum price of cocoa beans shall be established at 39 US cents per pound and a maximum price at 55 US cents per pound.

2. Before the end of the first quota year, and again if is decided to extend this Agreement for a further period of two years under Article 75, before the end of the third quota year, the Council shall review the minimum price and the maximum price and may, by special vote, revise them.

3. In exceptional circumstances resulting from upheavals in the international economic or monetary situation, the Council shall review the minimum price and maximum price and may, by special vote, revise them.

4. In conducting the review of prices referred to in paragraphs 2 and 3 the Council shall take into consideration the trend of cocoa prices, consumption, production, stocks, the influence on cocoa prices of changes in the world economic situation or monetary system and any other factors which might affect the achievement of the objectives set out in this Agreement. The Executive Director shall supply data necessary for the appropriate consideration of the foregoing elements.

5. The provisions of Article 76 shall not be applicable to the revision of prices under this Article.

Article 30

Basic quotas

1. For each quota year, the basic quota allocated to each exporting member listed in Annex A shall be the percentage which the average of its annual production in the preceding five crop years for which final figures are available in the Organization represents in the total of the averages for all the exporting members listed in Annex A.

2. There shall be no basic quotas for the exporting members listed in Annex B producing less than 10 000 tonnes of bulk cocoa.

3. The Council shall revise the lists in Annexes A and B if the development of production of an exporting member so requires.

Article 31

Annual export quotas

1. At least 40 days before the beginning of each quota year, the Council shall adopt an estimate of the world net import demand for cocoa. In so doing the Council shall take into account all relevant factors affecting the demand for and the supply of cocoa, which shall include, *inter alia,* the past trends of grindings, prospective stock variations and current and anticipated price trends. In the light of this estimate, and taking account of the expected volume of exports not subject to quotas, and imports from non-members, the Council shall forthwith determine annual export quotas by special vote at a level such as would be required to maintain the prices within the range specified in Article 29.

2. If, at least 35 days before the beginning of the quota year, the Council is unable to reach agreement on annual export quotas, the Executive Director shall submit to the Council his own proposal on the total of annual export quotas. The Council shall immediately proceed to a decision by special vote on the proposal. The Council shall, in any event, determine the annual export quotas at least 30 days before the beginning of the quota year.

3. The estimate adopted under paragraph 1, together with the annual export quotas determined on that basis, shall be reviewed and, if necessary, revised by the Council by special vote at its regular session in the first half of the quota year concerned, in the light of such updated statistical information as it may have collected under Article 57.

4. The annual export quota for each exporting member shall be proportionate to the basic quota determined in accordance with Article 30.

5. On the presentation of such evidence as it considers satisfactory, the Council shall authorize an exporting member producing less than 10 000 tonnes in any quota year to export during that year a quantity not greater than its effective production available for exports.

Article 32

Scope of export quotas

1. Annual export quotas cover:

(a) exports of cocoa from exporting members; and

(b) cocoa from the current crop year registered for export within the limit of the export quota in effect at the end of the quota year but shipped after the quota year, provided that such exports shall be made not later than the end of the first quarter of the succeeding quota year and shall be subject to conditions to be established by the Council.

2. For the purpose of determining the beans equivalent of the exports of cocoa products from exporting members and exporting non-members, the following shall be the conversion factors: cocoa butter 1·33; cocoa cake and powder 1·18; cocoa paste and nibs 1·25. The Council may determine if necessary that other products containing cocoa are cocoa products. The conversion factors for cocoa products other than those for which conversion factors are set out in this paragraph shall be fixed by the Council.

3. The Council shall, on the basis of any document referred to in Article 49, keep the exports of cocoa products by exporting members and imports of cocoa products from exporting non-members under continuous observation. If the Council finds that, during the quota year, the difference between exports of cocoa cake and/or cocoa powder by an exporting country and its exports of cocoa butter has considerably increased at the expense of cocoa cake and/or cocoa powder because, for example, of increased extraction-method processing, the conversion factors to be used for the purpose of determining the beans equivalent of its exports of cocoa products during that quota year, and/or, if the Council so decides, in a subsequent quota year, will be as follows: cocoa butter 2·15; cocoa paste and nibs 1·25; cocoa cake and powder 0·30; with consequential adjustment in the contribution remaining to be collected in accordance with Article 39. However, this provision shall not apply if the decrease in exports of products other than cocoa butter is due to increased domestic human consumption or to other reasons — to be provided by the exporting country — considered as satisfactory and acceptable to the Council.

4. Deliveries to the Buffer Stock Manager by exporting members under Article 40 (2) and under Article 46 (1), as well as diversion of cocoa under

Article 46 (2), shall not be counted against the export quotas of those members.

5. If the Council is satisfied that cocoa has been exported by exporting members for humanitarian or other non-commercial purposes, such cocoa shall not be counted against the export quotas of those members.

Article 33

Fine or flavour cocoa

1. Notwithstanding Articles 31 and 39, the provisions of this Agreement concerning export quotas and contributions for financing the buffer stock shall not apply to fine or flavour cocoa from any exporting member listed in paragraph 1 of Annex C whose production is exclusively of fine or flavour cocoa.

2. Paragraph 1 shall also apply in the case of any exporting member listed in paragraph 2 of Annex C, part of whose production consists of fine or flavour cocoa, to the extent of the proportion of their production stated in paragraph 2 of Annex C. With regard to the remaining proportion, the provisions of this Agreement concerning export quotas and contributions for financing the buffer stock and other limitations of this Agreement shall apply.

3. The Council may, by special vote, revise Annex C.

4. If the Council finds that the production of, or export from, countries listed in Annex C has risen sharply, it shall take appropriate steps to ensure that no abuse or evasion of this Agreement is taking place.

5. Each exporting member listed in Annex C undertakes to require the presentation of an authorized Council control document before permitting the export of fine or flavour cocoa from its territory. Each importing member undertakes to require the presentation of an authorized Council control document before permitting the import of fine or flavour cocoa into its territory.

Article 34

Operation and adjustment of annual export quotas

1. The Council shall keep the market situation under review and shall meet whenever circumstances so require.

2. The following quotas shall have effect unless the Council decides by special vote to increase or reduce them:

(a) when the indicator price is above the minimum price + 6 US cents per pound, and at or below the minimum price + 8 US cents per pound, the export quotas in effect shall be 100% of the initial annual export quotas;

(b) when the indicator price is above the minimum price + 3 US cents per pound and at or below the minimum price + 6 US cents per pound, the export quotas in effect shall be 97% of the initial annual export quotas;

(c) when the indicator price is above the minimum price + 8 US cents per pound the export quotas in effect shall be suspended.

3. When the indicator price is above the minimum price and at or below the minimum price + 3 US cents per pound, the manager shall purchase cocoa beans up to 4% of the initial annual export quotas under the terms provided for by Article 40 (3) and (6).

4. When the indicator price is below the minimum price, the manager shall purchase cocoa beans under the terms provided for by Article 40 (4) and (6).

5. When the indicator price is above the minimum price + 14 US cents per pound and at or below the maximum price, sales from the buffer stock shall take place up to 7% of the initial annual export quotas under the terms provided for by Article 41 (1).

6. When the indicator price is above the maximum price, sales from the buffer stock shall take place under the terms provided for by Article 41 (1).

Article 35

Compliance with export quotas

1. Members shall adopt the measures required to ensure full compliance with the obligations undertaken by them in this Agreement in respect of export quotas. The Council may call upon members to adopt additional measures, if necessary, for the effective implementation of the export quota system, including the making of regulations by exporting members providing for the registration of all their cocoa to be exported within the limit of the export quota in effect.

2. Exporting members undertake to regulate their sales in such a manner as to make for orderly marketing and to be in a position to comply at all times with their export quotas in effect. In any case, no exporting member shall export more than 85% and 90% of its annual export quota determined under Article 31 during the first two and the first three quarters respectively.

3. Each exporting member undertakes that the volume of its exports of cocoa shall not exceed its export quota in effect.

4. If an exporting member exceeds its export quota in effect by less than 1% of its annual export quota, this shall not be considered a breach of paragraph 3. However, any such excess shall be deducted from the export quota in effect of the member concerned in the following quota year.

5. If an exporting member exceeds for the first time its export quota in effect beyond the margin of tolerance referred to in paragraph 4, that member shall sell to the buffer stock, unless the Council decides otherwise, an amount equal to the excess within three months of this excess being discovered by the Council. This amount shall be automatically deducted from its export quota in effect for the quota year immediately following the one in which the breach took place. Sales to the buffer stock under this paragraph shall be made in accordance with Article 40 (6) and (7).

6. If an exporting member exceeds for a second or subsequent time its export quota in effect beyond the margin of tolerance referred to in paragraph 4, that member shall sell to the buffer stock, unless the Council decides otherwise, an amount equal to twice the excess within three months of this excess being discovered by the Council. This amount shall be automatically deducted from its export quota in effect for the quota year immediately following the one in which the breach took place. Sales to the buffer stock under this paragraph shall be made in accordance with Article 40 (6) and (7).

7. Any action taken under paragraphs 5 and 6 shall be without prejudice to the provisions of Chapter XV.

8. When the Council determines annual export quotas under Article 31, it may decide by special vote to establish quarterly export quotas. It shall at the same time establish the rules for operating and removing such quarterly export quotas. In establishing such rules the Council shall take into account the production pattern of each exporting member.

9. In the event that an introduction or a reduction of export quotas cannot be fully respected during the current quota year because of the existence of *bona fide* contracts entered into when export quotas were suspended or within export quotas in effect at the time the contracts were made, the adjustment shall be made in the export quotas in effect for the succeeding quota year. The Council may require evidence of such contracts.

10. Members undertake to transmit immediately to the Council any information which they may obtain in relation to any breach of this Agreement or of any rules or regulations established by the Council.

Article 36

Redistribution of shortfalls

1. Each exporting member shall, as soon as possible and in any case before the end of May in each quota year, notify the Council of the extent to which and the reasons why it expects either that it will not use all its quota in effect or that it will have a surplus over that quota. In the light of such notifications and explanations the Executive Director shall, unless the Council decides otherwise by special vote taking into account market conditions, redistribute shortfalls among exporting members in accordance with rules which the Council shall establish covering the conditions, timing and mode of such redistribution. Such rules shall include provisions regulating the manner in which reductions made under Article 35 (5) and (6) shall be dealt with.

2. For exporting members not in a position to notify the Council of their expected shortfalls or surpluses before the end of May because of the timing of the harvest of their main crop, the time limit for notification of shortfalls or surpluses shall be extended up to the middle of July. The exporting countries which qualify for this extension of time are listed in Annex E.

Article 37

Institution and financing of the buffer stock

1. A buffer stock arrangement is hereby instituted.

2. The buffer stock shall purchase and hold only cocoa beans and its maximum capacity shall be 250 000 tonnes.

3. The Buffer Stock Manager shall, in accordance with rules adopted by the Council, be responsible for the operation of the buffer stock and for buying cocoa beans, selling and maintaining in good condition stocks of cocoa beans and, without incurring market risks, replacing lots of cocoa beans in accordance with the relevant provisions of this Agreement. The Council shall examine the feasibility and desirability of the conversion into cocoa products of cocoa beans purchased by the buffer stock and, in the light of this examination, the Council may make recommendations to be taken into account at the re-negotiation of this Agreement under Article 75.

4. In order to finance its operations, the buffer stock shall, from the start of the first quota year after the entry into force of this Agreement, receive regular income in the form of contributions charged on cocoa in accordance with the provisions of Article 39. If, however, the Council has other sources of finance it may decide another date on which to implement the contribution.

5. Should the income of the buffer stock through contributions at any time seem likely to be insufficient to finance its operations, the Council may by special vote borrow funds in freely convertible currency from appropriate sources, including the Governments of member countries. Any such loans shall be repaid out of the proceeds of contributions, of the sale of cocoa beans by the buffer stock and of miscellaneous income of the buffer stock, if any. Individual members of the Organization shall not be responsible for the repayment of such loans.

6. The cost of operating and maintaining the buffer stock including:

(a) the remuneration of the manager and the members of the staff who operate and maintain the buffer stock, the cost to the Organization of administering and controlling the collection of contributions and interest or capital charges due on sums borrowed by the Council, and

(b) other costs such as the cost of transportation and insurance from the fob point into the buffer stock storage point, storage including fumigation, handling charges, insurance, management and inspection and any expenditure incurred in replacing lots of cocoa beans to maintain their condition and value,

shall be met out of the regular source of income from contributions or loans under paragraph 5 or the proceeds of resale under paragraph 6 of Article 40.

Article 38

Investment of surplus buffer stock funds

1. Part of the funds of the buffer stock as are temporarily surplus to that required to finance its operations may be suitably deposited in importing and exporting member countries in accordance with rules to be established by the Council.

2. These rules shall, among other things, take into account the liquidity necessary for the full operation of the buffer stock and the desirability of maintaining the real value of the funds.

Article 39

Contributions for financing the buffer stock

1. The contribution charged on cocoa either on first export by a member or on first import by a member shall be 1 US cent per pound of cocoa beans and proportionately on cocoa products in accordance with Article 32 (2) and (3). In any case the contribution shall only be charged once. For this purpose, imports of cocoa by a member from a non-member country shall be deemed to have originated from that non-member unless satisfactory evidence is given that such cocoa originated from a member. The Council shall review annually the buffer stock contribution and, notwithstanding the provisions of the first sentence of this paragraph may, by special vote, determine a lower rate of contribution or decide to suspend the contribution in the light of the financial resources and obligations of the Organization in relation to the buffer stock.

2. Certificates of contribution shall be issued by the Council in accordance with the rules which it shall establish. Such rules shall take into account the interests of the cocoa trade and shall cover, *inter alia,* the possible use of agents, the issuance of documents against contributions, and the payment of contributions within a given time limit.

3. Contributions under this Article shall be payable in freely convertible currencies and shall be exempt from foreign exchange restrictions.

4. Nothing contained in this Article shall affect the right of any buyer or seller to regulate the terms of payment for supplies of cocoa by agreement between them.

Article 40

Purchases by the buffer stock

1. For the purposes of this Article, the maximum capacity of the buffer stock shall be divided into individual entitlements for each exporting member in the same proportion as its basic quota determined in accordance with Article 30.

2. If annual export quotas are reduced under Article 34, each exporting member shall forthwith offer to sell to the Buffer Stock Manager, and the manager shall, within 10 days of the quota reduction, enter into a contract to buy from each exporting member, an amount of cocoa beans equal to the reduction in its quota.

3. When the manager makes purchases under Article 34 (3), he shall continue to purchase cocoa beans up to 4% of the initial annual export quotas, or until the indicator price rises above the minimum price + 3 US cents per pound, whichever is earlier.

4. When the manager makes purchases under Article 34 (4), he shall continue to purchase cocoa beans until the indicator price rises above the minimum price or the maximum capacity of the buffer stock is reached, whichever is earlier.

5. The Manager shall purchase only cocoa beans of recognized standard marketable grades and in quantities of not less than 100 tonnes. Such beans shall be the property of the Organization and under its control.

6. In purchasing cocoa beans under the provisions of Article 34 (3) and (4) and paragraph 2 of this Article, the manager shall make:

(a) payment at current market prices in accordance with rules to be determined by the Council; or

(b) at the request of the exporting member concerned,

(i) an initial payment of 25 US cents per pound fob on delivery of the cocoa beans; provided that at any time after the end of the first quota year the Council, on the recommendation of the manager, may decide, by special vote, in the light of the current and prospective financial position of the buffer stock, to increase the initial payment.

(ii) a complementary payment on the sale of the cocoa beans by the buffer stock representing the proceeds of the sale less the payment made under (i) and the cost of transportation and insurance from the fob point into the buffer stock storage point, storage and handling charges, and costs, if any, of replacing lots of cocoa beans as necessary to maintain the condition and value of such lots.

7. Where a member has already sold to the manager a quantity of cocoa beans equal to its individual entitlement as defined in paragraph 1, the manager shall for subsequent purchases pay at the time of delivery only such a price as would be realized by the disposal of the cocoa beans for non-traditional uses. If cocoa beans bought under the provisions of this paragraph are subsequently resold under the provisions of Article 41, the manager shall make a complementary payment to the exporting member concerned representing the proceeds of the re-sale less the payment already made under this paragraph and the cost of transportation and insurance from the fob point into the buffer stock storage point, storage and handling charges, and costs, if any, of replacing lots of cocoa beans as necessary to maintain the condition and value of such lots.

8. Where cocoa beans are sold to the manager under paragraph 2, the contract shall contain a clause allowing the exporting member to cancel all or part of the contract before the cocoa beans are delivered:

(a) if subsequently in the same quota year the reduction in quota which gave rise to the sale is restored under the provisions of Article 34; or

(b) to the extent that, after making such sales, production in the same quota year proves to be insufficient to satisfy the member's export quota in effect.

9. Purchase contracts under this Article shall provide for delivery within a period to be stipulated in the contract but at the latest within two months after the end of the quota year.

10. (a) The manager shall keep the Council informed of the financial position of the buffer stock. If he considers that funds will not be sufficient to pay for the cocoa beans which he believes will be offered to him during the current quota year, he shall request the Executive Director to convene a special session of the Council.

(b) If the Council is unable to find any other practicable solution, it may by special vote

suspend or restrict purchases under paragraphs 2, 3, 4 and 7, until such time as it is able to resolve the financial situation.

11. The manager shall maintain appropriate records to enable him to fulfil his functions under this Agreement.

Article 41

Buffer stock sales in defence of the maximum price

1. The Buffer Stock Manager shall make sales from the buffer stock pursuant to Article 34 (5) and (6) in accordance with the provisions of this Article:

(a) sales shall be at current market prices.

(b) when sales from the buffer stock commence pursuant to Article 34 (5), the manager shall continue to offer to sell until:

(i) the indicator price falls to the minimum price + 14 US cents per pound; or

(ii) he has exhausted all the supplies at his disposal; or

(iii) he has sold up to 7% of the initial export quotas; whichever is earliest.

(c) when the indicator price is above the maximum price, the manager shall continue to offer to sell until the indicator price falls to the maximum price or until he has exhausted all the supplies at his disposal, whichever is earlier.

2. In making sales in accordance with paragraph 1, the manager shall, in accordance with rules approved by the Council, sell through normal channels to firms and organizations in member countries, but mainly in importing member countries, engaged in the trade in or processing of cocoa for the purpose of future processing.

3. In making sales in accordance with paragraph 1, the manager shall, subject to the acceptability of the price bid, give first refusal to purchasers in member countries before accepting bids from purchasers in non-member countries.

4. The buffer stock shall be stored in such locations as will facilitate immediate ex-store delivery to buyers referred to in paragraph 2.

Article 42

Withdrawal of cocoa beans from the buffer stock

1. Notwithstanding the provisions of Article 41, an exporting member which is unable to fulfil its quota during a quota year owing to a shortfall in its crop may apply to the Council for approval to withdraw all or part of its cocoa beans purchased by the Buffer Stock Manager during the preceding quota year and still held in stock unsold, to the extent of the amount by which its export quota in effect exceeds production for the quota year. The exporting member concerned shall pay to the manager, on release of the cocoa beans, the costs incurred in respect of the cocoa beans covering the initial payment, the cost of transportation and insurance from the fob point into the buffer stock storage point, and storage and handling charges.

2. The Council shall establish the rules for the withdrawal of cocoa beans from the buffer stock under paragraph 1.

Article 43

Changes in the exchange rates of currencies

1. A special session of the Council shall be called by the Executive Director either on his own initiative or at the request of members in accordance with Article 9 (2), if conditions on the foreign exchange markets are such as to have important implications for the price provisions of this Agreement. Special sessions of the Council under this paragraph shall be convened within not more than four working days.

2. After calling such special session and pending its outcome, the Executive Director and the Buffer Stock Manager may take such minimum interim measures as they consider necessary to avoid serious disruption of the effective functioning of this Agreement on account of conditions on the foreign exchange markets. In particular they may, after consultation with the Chairman of the Council, temporarily restrict or suspend operations of the buffer stock.

3. After consideration of the circumstances, including a review of the interim measures that may have been taken by the Executive Director and the manager and the potential effect that conditions on the foreign exchange markets mentioned above may have on the effective operation of this Agreement, the Council may, by special vote, take any necessary corrective measures.

Article 44

Liquidation of the buffer stock

1. If this Agreement is to be replaced by a new agreement which includes provisions relating to the buffer stock, the Council shall make such arrangements as it considers appropriate regarding the continued functioning of the buffer stock.

2. If this Agreement terminates without being replaced by a new agreement which includes provisions relating to the buffer stock, the following provisions shall apply:

(a) No further contracts shall be made for the purchase of cocoa beans for the buffer stock. The Buffer Stock Manager shall, in the light of current market conditions, dispose of the buffer stock in accordance with the rules laid down by the Council by special vote on the entry into force of this Agreement, unless, prior to the termination of this Agreement, the Council revises these rules by special vote. The manager shall retain the right to sell cocoa beans at any time during liquidation to meet the costs thereof.

(b) The proceeds of sales and monies standing to the account of the buffer stock shall be used to pay, in the following order:

(i) the costs of liquidation,

(ii) any outstanding balance of, plus interest on, any loan incurred by or on behalf of the Organization in respect of the buffer stock,

(iii) any outstanding complementary payments under Article 40.

(c) Any monies remaining after payments have been made under (b) shall be paid to the exporting members concerned in proportion to the contribution-paid exports of each such exporting member.

Article 45

Assurance of supplies

1. Exporting members undertake to pursue sales and export policies in accordance with the provisions of this Agreement which will not artificially restrict offer for sale of available cocoa and which will ensure the regular supply of cocoa to importers in importing member countries.

2. In offering cocoa for sale when the price is above the maximum price, exporting members shall give preference to importers in importing member countries as against importers in non-member countries. When the indicator price is above the maximum price, exporting members shall, where possible, endeavour to place a limitation on their exports to non-member countries.

Article 46

Diversion to non-traditional uses

1. If the quantity of cocoa beans held in store by the Buffer Stock Manager under Article 40 exceeds the maximum capacity of the buffer stock, the manager shall, under terms and conditions laid down by the Council, dispose of such excess cocoa beans for diversion to non-traditional uses. Such terms and conditions shall, *inter alia,* be designed to ensure that the cocoa does not re-enter the normal cocoa market. Each member shall cooperate with the Council in this respect to the fullest extent possible.

2. Instead of selling cocoa beans to the manager when the maximum capacity of the buffer stock has been reached, an exporting member may, under the control of the Council, divert internally its surplus cocoa to non-traditional uses.

3. Whenever any case of diversion inconsistent with this Agreement is brought to the attention of the Council, including any case of re-entry into the market of cocoa diverted to non-traditional uses, the Council shall decide at the earliest opportunity what measures should be taken to remedy the situation.

CHAPTER VIII

REPORTING OF IMPORTS AND EXPORTS, RECORDS OF QUOTA PERFORMANCE AND CONTROL MEASURES

Article 47

Reporting of exports and record of quota performance

1. In accordance with rules to be established by the Council, the Executive Director shall maintain a record of the annual export quota and its adjustments in the case of each exporting member. Against the quota shall be recorded the exports for quota purposes which are made by that member so that the quota position of each exporting member is kept up to date.

2. For this purpose, each exporting member shall report to the Executive Director at such intervals as the Council may determine the total quantity of exports registered, together with such other data as the Council may prescribe. This information shall be published at the end of each month.

3. Exports for non-quota purposes shall be recorded separately.

Article 48

Reporting of imports and exports

1. In accordance with rules to be established by the Council, the Executive Director shall maintain a record of members' imports and of exports from importing members.

2. For this purpose, each member shall report to the Executive Director the total quantities of its imports, and each importing member shall report to the Executive Director the total quantities of its exports, at such intervals as the Council may determine, together with such other data as the Council may prescribe. This information shall be published at the end of each month.

3. Imports which, under this Agreement, do not count against export quotas shall be recorded separately.

Article 49

Control measures

1. Each member exporting cocoa shall require the presentation of a valid certificate of contribution or other authorized Council control document before permitting the shipment of cocoa from its customs territory. Each member importing cocoa shall require the presentation of a valid certificate of contribution or other authorized Council control document before permitting the import of any cocoa into its customs territory whether from a member or a non-member.

2. Certificates of contribution will not be required for cocoa exported under the provisions of Article 32 (4) and (5). The Council shall arrange to issue appropriate control documents to cover such shipments.

3. Certificates of contribution or other authorized Council control documents shall not be issued to cover shipments, in any period, of cocoa in excess of authorized exports for that period.

4. The Council shall by special vote adopt such rules as it considers necessary in respect of certificates of contribution and other authorized Council control documents.

5. For fine or flavour cocoa the Council shall make such rules as it considers necessary in respect of the simplification of the procedure for authorized Council control documents, taking into account all relevant factors.

CHAPTER IX

PRODUCTION AND STOCKS

Article 50

Production and stocks

1. Members recognize the necessity of keeping production in reasonable balance with consumption, and shall cooperate with the Council in the attainment of this objective.

2. Each producing member may develop a programme to adjust its production, in order that the objective set forth in paragraph 1 may be attained. Each producing member concerned shall be responsible for the policies and procedures it applies to attain this objective.

3. The Council shall review annually the level of stocks held throughout the world and make any necessary recommendations based on this review.

4. At its first session, the Council shall take measures to develop a programme for the collection of information needed to establish, on a scientific basis, the world's current and potential productive capacity, as well as the world's current and potential consumption. Members shall facilitate the carrying out of this programme.

CHAPTER X

EXPANSION OF CONSUMPTION

Article 51

Obstacles to the expansion of consumption

1. Members recognize the importance of ensuring the greatest possible expansion of the cocoa economy and therefore of facilitating the expansion of cocoa consumption in relation to production so

as to secure the best equilibrium in the long term between supply and demand, and in this connection also recognize that it is important to bring about the gradual removal of all possible obstacles to such expansion.

2. The Council shall identify the specific problems related to the obstacles to the expansion of the trade in and consumption of cocoa referred to in paragraph 1, and shall seek mutually acceptable practical measures designed to remove progressively such obstacles.

3. In view of the objectives stated above and the provisions of paragraph 2, members shall endeavour to apply measures to reduce progressively the obstacles to the expansion of consumption and as far as possible eliminate them, or to diminish substantially their impact.

4. The Council may, in order to further the purposes of this Article, make any recommendations to members and shall examine periodically, beginning at its first regular session in the second quota year, the results achieved.

5. Members shall inform the Council of all measures adopted with a view to implementing the provisions of this Article.

Article 52

Promotion of consumption

1. The Council may establish a committee whose aim shall be to stimulate the expansion of consumption of cocoa in both exporting and importing countries. The Council shall periodically review the work of the committee.

2. The cost of the promotion programme shall be met by contributions from exporting members. Importing members may also contribute financially. Membership of the committee shall be limited to members contributing to the promotion programme.

3. The committee shall seek the approval of a member before conducting a campaign in the territory of that member.

Article 53

Cocoa substitutes

1. Members recognize that the use of substitutes may prejudice the expansion of cocoa consumption. In this regard they agree to establish regulations on cocoa products and chocolate or to adapt existing regulations, if necessary, so that the said regulations shall prohibit materials of non-cocoa origin from being used in place of cocoa to mislead the consumer.

2. In preparing or reviewing regulations based on the principles in paragraph 1, members shall take fully into account the recommendations and decisions of competent international bodies such as the Council and the Codex Committee on Cocoa Products and Chocolate.

3. The Council may recommend to a member that it take any measures which the Council considers advisable for assuring the observance of the provisions of this Article.

4. The Executive Director shall present an annual report to the Council on the manner in which the provisions of this Article are being observed.

CHAPTER XI

PROCESSED COCOA

Article 54

Processed cocoa

1. The needs of developing countries to broaden the base of their economies through, *inter alia*, industrialization and the export of manufactured products — including cocoa processing and the export of cocoa products and chocolate — are recognized. In this connection, the need to avoid serious injury to the cocoa economy of importing and exporting members is also recognized.

2. If any member considers that there is a danger of injury to its interest in any of the above respects, that member may consult with the other member concerned with a view to reaching an understanding satisfactory to the parties concerned, failing which the member may report to the Council, which shall use its good offices in the matter to reach such understanding.

CHAPTER XII

RELATIONS BETWEEN MEMBERS AND NON-MEMBERS

Article 55

Limitation of imports from non-members

1. Each member shall limit its annual imports of cocoa produced in non-member countries, other

than imports of fine or flavour cocoa from exporting countries listed in Annex C, in accordance with the provisions of this Article.

2. Each member undertakes for each quota year:

(a) not to permit the import of a total quantity of cocoa produced in non-member countries as a group which is in excess of the average quantity imported from them as a group in the three calendar years 1970, 1971 and 1972;

(b) to reduce by half the quantity specified in (a) when the indicator price falls below the minimum price, and to maintain this reduction until the level of quotas in effect reaches that provided for in Article 34 (2) (a).

3. The Council may by special vote suspend in whole or in part the limitations under paragraph 2. The limitations in paragraph 2 (a) shall not in any event apply when the indicator price of cocoa is above the maximum price.

4. The limitations under paragraph 2 (a) shall not apply to cocoa purchased under *bona fide* contracts concluded when the indicator price was above the maximum price, nor those in 2 (b) to cocoa purchased under *bona fide* contracts concluded before the indicator price fell below the minimum price. In such cases the reductions shall, subject to the provisions of paragraph 2 (b), be applied in the following quota year unless the Council decides to waive the reductions or to apply them in a subsequent quota year.

5. Members shall inform the Council regularly of the quantities of cocoa imported by them from non-members or exported by them to non-members.

6. Any imports by a member from non-members in excess of the quantity which it is permitted to import under this Article shall be deducted from the quantity which such member would otherwise be permitted to import in the next quota year, unless the Council decides otherwise.

7. If a member on more than one occasion fails to comply with the provisions of this Article, the Council may by special vote suspend both its voting rights in the Council and its right to vote or to have its votes cast in the Executive Committee.

8. The obligations set out in this Article shall not prejudice conflicting bilateral or multilateral obligations assumed by members with respect to non-members before the entry into force of this Agreement, provided that any member which has assumed such conflicting obligations shall fulfil them in such a way as to attenuate as much as possible the conflict between those obligations and the obligations set out in this Article, that it shall take steps as promptly as possible to reconcile those obligations and the provisions of this Article, and that it shall describe to the Council in detail the nature of those obligations and the steps it has taken to attenuate or eliminate the conflict.

Article 56

Commercial transactions with non-members

1. Exporting members undertake not to sell cocoa to non-members on terms commercially more favourable than those which they are prepared to offer at the same time to importing members, taking into account normal trade practices.

2. Importing members undertake not to buy cocoa from non-members on terms commercially more favourable than those which they are prepared to accept at the same time from exporting members, taking into account normal trade practices.

3. The Council shall periodically review the operation of paragraphs 1 and 2 and may require members to supply appropriate information in accordance with Article 57.

4. Without prejudice to the provisions of Article 55 (8), any member which has reason to believe that another member has not fulfilled the obligation under paragraph 1 or 2 may so inform the Executive Director and call for consultations under Article 61, or refer the matter to the Council under Article 63.

CHAPTER XIII

INFORMATION AND STUDIES

Article 57

Information

1. The Organization shall act as a centre for the collection, exchange and publication of:

(a) statistical information on world production, sales, prices, exports and imports, consumption and stocks of cocoa; and

(b) in so far as is considered appropriate, technical information on the cultivation, processing and utilization of cocoa.

2. In addition to information which members are required to furnish under other Articles of this Agreement, the Council may require members to furnish such information as it considers necessary for its operations, including regular reports on policies for production and consumption, sales, prices, exports and imports, stocks and taxation.

3. If a member fails to supply, or finds difficulty in supplying, within a reasonable time, statistical and other information required by the Council for the proper functioning of the Organization, the Council may require the member concerned to explain the reasons therefor. If it is found that technical assistance is needed in the matter, the Council may take any necessary measures.

4. The Council shall at appropriate times but not less than twice a year publish estimates of production of cocoa beans and grindings for the current quota year.

Article 58

Studies

The Council shall, to the extent it considers necessary, promote studies of the economics of cocoa production and distribution, including trends and projections, the impact of governmental measures in exporting and importing countries on the production and consumption of cocoa, the opportunities for expansion of cocoa consumption for traditional and possible new uses, and the effects of the operation of this Agreement on exporters and importers of cocoa, including their terms of trade, and may submit recommendations to members on the subjects of these studies. The Council may also decide to promote scientific research in specific areas of production, manufacture and consumption. In the promotion of these studies and research, the Council may cooperate with international organizations and research institutions in member countries.

Article 59

Annual review

The Council shall, as soon as practicable after the end of each quota year, review the operation of this Agreement and the performance of members in conforming to the principles and promoting the objectives thereof. It may then make recommendations to members regarding ways and means of improving the functioning of this Agreement.

CHAPTER XIV

RELIEF FROM OBLIGATIONS IN EXCEPTIONAL CIRCUMSTANCES

Article 60

Relief from obligations in exceptional circumstances

1. The Council may, by special vote, relieve a member of an obligation on account of exceptional or emergency circumstances, *force majeure,* or international obligations under the Charter of the United Nations for territories administered under the trusteeship system.

2. The Council, in granting relief to a member under paragraph 1, shall state explicitly the terms and conditions on which and the period for which the member is relieved of the obligation.

3. Notwithstanding the foregoing provisions of this Article, the Council shall not grant relief to a member in respect of:

(a) the obligation under Article 24 to pay contributions, or the consequences of a failure to pay them;

(b) any export quota or other limitation on exports, if the quota or other limitation has already been exceeded;

(c) the obligation to require payment of any contribution charged under Article 39.

CHAPTER XV

CONSULTATIONS, DISPUTES AND COMPLAINTS

Article 61

Consultations

Each member shall accord sympathetic consideration to any representations made to it by another member concerning the interpretation or application of this Agreement and shall afford adequate opportunity

for consultations. In the course of such consultations, on the request of either party and with the consent of the other, the Executive Director shall establish an appropriate conciliation procedure. The costs of such procedure shall not be chargeable to the Organization. If such procedure leads to a solution, this shall be reported to the Executive Director. If no solution is reached, the matter may, at the request of either party, be referred to the Council in accordance with Article 62.

Article 62

Disputes

1. Any dispute concerning the interpretation or application of this Agreement which is not settled by the parties to the dispute shall, at the request of either party to the dispute, be referred to the Council for decision.

2. When a dispute has been referred to the Council under paragraph 1, and has been discussed, a majority of members, or members holding not less than one-third of the total votes, may require the Council, before giving its decision, to seek the opinion on the issues in dispute of an *ad hoc* advisory panel to be constituted as described in paragraph 3.

3. (a) Unless the Council unanimously decides otherwise, the *ad hoc* advisory panel shall consist of:

(i) two persons, one having wide experience in matters of the kind in dispute and the other having legal standing and experience, nominated by the exporting members,

(ii) two such persons nominated by the importing members, and

(iii) a chairman selected unanimously by the four persons nominated under (i) and (ii) or, if they fail to agree, by the Chairman of the Council.

(b) Nationals of members shall not be ineligible to serve on the *ad hoc* advisory panel.

(c) Persons appointed to the *ad hoc* advisory panel shall act in their personal capacities and without instructions from any Government.

(d) The costs of the *ad hoc* advisory panel shall be paid by the Organization.

4. The opinion of the *ad hoc* advisory panel and the reasons therefor shall be submitted to the Council which, after considering all the relevant information, shall decide the dispute.

Article 63

Complaints and action by the Council

1. Any complaint that any member has failed to fulfil its obligations under this Agreement shall, at the request of the member making the complaint, be referred to the Council, which shall consider it and make a decision on the matter.

2. Any finding by the Council that a member is in breach of its obligations under this Agreement shall be made by a simple distributed majority vote and shall specify the nature of the breach.

3. Whenever the Council, whether as a result of a complaint or otherwise, finds that a member is in breach of its obligations under this Agreement it may, without prejudice to such other measures as are specifically provided for in other Articles of this Agreement, including Article 73, by special vote:

(a) suspend that member's voting rights in the Council and in the Executive Committee; and

(b) if it considers necessary, suspend additional rights of such member, including that of being eligible for, or of holding, office in the Council or in any of its committees until it has fulfilled its obligations.

4. A member whose voting rights are suspended under paragraph 3 shall remain liable for its financial and other obligations under this Agreement.

CHAPTER XVI

FAIR LABOUR STANDARDS

Article 64

Fair labour standards

Members declare that, in order to raise the levels of living standards of populations and provide full employment, they will endeavour to maintain fair labour standards and working conditions in the various branches of cocoa production in the countries concerned, consistent with their stage of development, as regards both agricultural and industrial workers employed therein.

CHAPTER XVII

FINAL PROVISIONS

Article 65

Signature

This Agreement shall be open for signature at United Nations Headquarters from 10 November 1975 until and including 31 August 1976 by parties to the International Cocoa Agreement 1972 and Governments invited to the United Nations Cocoa Conference 1975.

Article 66

Ratification, acceptance, approval

1. This Agreement shall be subject to ratification, acceptance or approval by the signatory Governments in accordance with their respective constitutional procedures.

2. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations not later than 30 September 1976; provided, however, that the Council may grant extensions of time to signatory Governments which are unable to deposit their instruments by that date.

3. Each Government depositing an instrument of ratification, acceptance or approval shall, at the time of such deposit, indicate whether it is an exporting member or an importing member.

Article 67

Accession

1. This Agreement shall be open to accession by the Governments of all States [1] upon conditions established by the Council.

2. The Council of the International Cocoa Agreement 1972 may, pending the entry into force of this Agreement, establish the conditions referred to in paragraph 1, subject to confirmation by the Council of this Agreement and the Government concerned.

3. If the Government is the Government of an exporting country which is not listed in Annex A or Annex C, the Council shall, as appropriate, determine in accordance with Article 30 a basic quota for that country, which country shall be deemed to be listed in Annex A.

4. Accession shall be effected by deposit of an instrument of accession with the Secretary-General of the United Nations.

Article 68

Notification of provisional application

1. A signatory Government which intends to ratify, accept or approve this Agreement or a Government for which the Council has established conditions for accession, but which has not yet been able to deposit its instrument may, at any time, notify the Secretary-General of the United Nations that it will apply this Agreement provisionally either when it enters into force in accordance with Article 69 or, if it is already in force, at a specified date. Each Government giving such notification shall at that time state whether it will be an exporting member or an importing member.

2. A Government which has notified under paragraph 1 that it will apply this Agreement either when it enters into force or at a specified date shall, from that time, be a provisional member. It shall remain a provisional member until the date of deposit of its instrument of ratification, acceptance, approval or accession.

Article 69

Entry into force

1. This Agreement shall enter definitively into force on 1 October 1976, if by that date Governments representing at least five exporting countries having at least 80 per cent of the basic quotas as set out in Annex F and Governments representing importing countries having at least 70% of total imports as set out in Annex D have deposited their instruments of ratification, acceptance, approval or accession with the Secretary-General of the United Nations. If this Agreement has not definitively entered into force in accordance with the preceding sentence, it shall do so whenever these percentage requirements are satisfied by the deposit of instruments of ratification, acceptance, approval or accession.

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[1] At its seventh plenary meeting on 20 October 1975, the United Nations Cocoa Conference 1975 adopted the following understanding recommended by its Administrative and Legal Committee:
In accordance with its terms, this Agreement will be open to accession by the Governments of all States, and the Secretary-General of the United Nations will act as depositary. It is the understanding of the Conference that the Secretary-General, in discharging his functions as depositary of an agreement with an 'All-States' clause, will follow the practice of the General Assembly of the United Nations in implementing such a clause and, whenever advisable, will request the opinion of the General Assembly before receiving an instrument of accession.

2. If this Agreement has not entered into force definitively on 1 October 1976 in accordance with paragraph 1 it shall enter into force provisionally on 1 October 1976, if by that date Governments representing at least five exporting countries having at least 80% of the basic quotas as set out in Annex F and Governments representing importing countries having at least 70% of total imports as set out in Annex D have deposited their instruments of ratification, acceptance, approval or accession, or have notified the Secretary-General of the United Nations that they will apply this Agreement provisionally when it enters into force.

3. If the requirements for entry into force under paragraph 1 or 2 have not been met on 1 October 1976, the Secretary-General of the United Nations shall invite, at the earliest time he considers practicable after that date, the Governments which have deposited instruments of ratification, acceptance, approval or accession, or have notified him that they will apply this Agreement provisionally, to meet to decide whether to put this Agreement provisionally or definitively into force among themselves in whole or in part. If no decision is reached at this meeting, the Secretary-General may convene such further meetings as he considers appropriate.

4. During any period in which this Agreement is in force provisionally under paragraph 2 or 3, Governments that have deposited instruments of ratification, acceptance, approval or accession, as well as those Governments that have notified the Secretary-General of the United Nations that they will apply this Agreement provisionally, shall be provisional members.

5. While this Agreement is in force provisionally, the Governments participating shall make the necessary arrangements to review the situation and decide whether this Agreement shall definitively enter into force among themselves, continue provisionally in force, or terminate.

Article 70

Reservations

Reservations may not be made with respect to any of the provisions of this Agreement.

Article 71

Territorial application

1. A Government may at the time of signature or deposit of an instrument of ratification, acceptance, approval or accession, or at any time thereafter, by notification to the Secretary-General of the United Nations, declare that this Agreement shall extend to any of the territories for whose international relations it is for the time being ultimately responsible, and this Agreement shall extend to the territories named therein from the date of such notification, or from the date on which this Agreement enters into force for that Government, whichever is the later.

2. Any contracting party which desires to exercise its rights under Article 3 in respect of any of the territories for whose international relations it is for the time being ultimately responsible may do so by making a notification to that effect to the Secretary-General of the United Nations, either at the time of the deposit of its instrument of ratification, acceptance, approval or accession, or at any later time. If the territory which becomes a separate member is an exporting member and is not listed in Annex A or Annex C the Council shall, as appropriate, establish a basic quota for that territory, which territory shall be deemed to be listed in Annex A.

3. Any contracting party which has made a declaration under paragraph 1 may at any time thereafter, by notification to the Secretary-General of the United Nations, declare that this Agreement shall cease to extend to the territory named in the notification, and this Agreement shall cease to extend to such territory from the date of such notification.

4. When a territory to which this Agreement has been extended under paragraph 1 subsequently attains independence, the Government of that territory may, within 90 days after the attainment of independence, declare by notification to the Secretary-General of the United Nations that it has assumed the rights and obligations of a contracting party to this Agreement. If such party is an exporting member and is not listed in Annex A or Annex C the Council shall, as appropriate, establish a basic quota for that party, which party shall be deemed to be listed in Annex A.

5. The Government of a new State which intends to make a notification under paragraph 4 but which has not yet been able to complete the procedure necessary to enable it to do so may notify the Secretary-General of the United Nations that it will apply this Agreement provisionally. Such a Government shall be a provisional member until it makes its notification under the preceding paragraph or until

the expiry of the 90-day period referred to therein, whichever is earlier.

Article 72

Voluntary withdrawal

At any time after the entry into force of this Agreement, any member may withdraw from this Agreement by giving written notice of withdrawal to the Secretary-General of the United Nations. Withdrawal shall become effective 90 days after the notice is received by the Secretary-General of the United Nations.

Article 73

Exclusion

If the Council finds, under Article 63 (3), that any member is in breach of its obligations under this Agreement and decides further that such breach significantly impairs the operation of this Agreement, it may by special vote exclude such member from the Organization. The Council shall immediately notify the Secretary-General of the United Nations of any such exclusion. Ninety days after the date of the Council's decision, that member shall cease to be a member of the Organization and, if such member is a contracting party, a party to this Agreement.

Article 74

Settlement of accounts with withdrawing or excluded members

1. The Council shall determine any settlement of accounts with a withdrawing or excluded member. The Organization shall retain any amounts already paid by a withdrawing or excluded member, and such member shall remain bound to pay any amounts due from it to the Organization at the time the withdrawal or the exclusion becomes effective; provided, however, that in the case of a contracting party which is unable to accept an amendment and consequently ceases to participate in this Agreement under the provisions of Article 76 (2), the Council may determine any settlement of accounts which it finds equitable.

2. A member which has withdrawn or been excluded from, or has otherwise ceased to participate in, this Agreement shall not be entitled to any share of the proceeds of liquidation or the other assets of the Organization; nor shall it be burdened with any part of the deficit, if any, of the Organization upon termination of this Agreement.

Article 75

Duration and termination

1. This Agreement shall remain in force until the end of the third full quota year after its entry into force, unless extended under paragraph 2, 4 or 5 or terminated earlier under paragraph 6.

2. Before the end of the third quota year referred to in paragraph 1, the Council may by special vote decide that this Agreement be renegotiated or be extended for two further quota years.

3. If, in accordance with paragraph 2, this Agreement has been extended for two further quota years, the Council, before the end of the fifth quota year, may by special vote, decide that this Agreement be renegotiated.

4. If, before the end of the third quota year referred to in paragraph 1, negotiations for a new Agreement to replace this Agreement have not yet been concluded, the Council may, by special vote, extend this Agreement for a further period not exceeding two quota years. The Council shall notify the Secretary-General of the United Nations of any such extension.

5. If, before the end of the third quota year referred to in paragraph 1, a new Agreement to replace this Agreement has been negotiated, and has been signed by sufficient governments to bring it into force after ratification, acceptance or approval, but the new Agreement has not provisionally or definitively entered into force, this Agreement shall be extended until the provisional or definitive entry into force of the new Agreement, provided that this extension shall not exceed two quota years. The Council shall notify the Secretary-General of the United Nations of any such extension.

6. The Council may at any time, by special vote, decide to terminate this Agreement. Such termination shall take effect on such date as the Council shall decide, provided that the obligations of members under Article 39 shall continue until the financial liabilities relating to the buffer stock have been discharged or until the end of the third quota year after the entry into force of this Agreement, whichever is the earlier. The Council shall notify the Secretary-General of the United Nations of any such decision.

7. Notwithstanding termination of this Agreement, the Council shall remain in being for as long as necessary to carry out the liquidation of the Organization, settlement of its accounts, and disposal of its assets, and shall have during that period such powers and functions as may be necessary for these purposes.

Article 76

Amendments

1. The Council may by special vote recommend an amendment of this Agreement to the contracting parties. The Council may fix a time after which each contracting party shall notify the Secretary-General of the United Nations of its acceptance of the amendment. The amendment shall become effective 100 days after the Secretary-General of the United Nations has received notifications of acceptance from contracting parties representing at least 75% of the exporting members holding at least 85% of the votes of the exporting members, and from contracting parties representing at least 75% of the importing members holding at least 85% of the votes of the importing members, or on such later date as the Council by special vote may have determined. The Council may fix a time within which each Contracting Party shall notify the Secretary-General of the United Nations of its acceptance of the amendment, and, if the amendment has not become effective by such time, it shall be considered withdrawn. The Council shall provide the Secretary-General with the information necessary to determine whether the notifications of acceptance received are sufficient to make the amendment effective.

2. Any member on behalf of which notification of acceptance of an amendment has not been made by the date on which such amendment becomes effective shall as of that date cease to participate in this Agreement, unless any such member satisfies the Council at its first meeting following the effective date of the amendment that acceptance could not be secured in time owing to difficulties in completing its constitutional procedures, and the Council decides to extend for such member the period fixed for acceptance until these difficulties have been overcome. Such member shall not be bound by the amendment before it has notified its acceptance thereof.

Article 77

Supplementary and transitional provisions

1. This Agreement shall be considered as a continuation of the International Cocoa Agreement 1972.

2. In order to facilitate the uninterrupted continuation of the International Cocoa Agreement 1972:

(a) all acts by or on behalf of the Organization or any of its organs under the International Cocoa Agreement 1972 which are in effect on 30 September 1976 and the terms of which do not provide for expiry on that date shall remain in effect unless changed under the provisions of this Agreement.

(b) All decisions required to be taken by the Council of the International Cocoa Agreement 1972 during the 1975/76 quota year for application in the 1976/77 quota year shall be taken during the last regular session of that Council in the 1975/76 quota year and applied on a provisional basis as if this Agreement had already entered into force, provided that if any member requests review of any such decision, that decision must be confirmed by the Council, by special or simple distributed majority vote in accordance with this Agreement, within 90 days after the entry into force of this Agreement.

Article 78

Authentic texts of this Agreement

The texts of this Agreement in the English, French, Russian and Spanish languages shall be equally authentic. The originals shall be deposited in the archives of the United Nations.

In witness whereof the undersigned, having been duly authorized to this effect by their respective Governments, have signed this Agreement on the dates appearing opposite their signatures.

ANNEX A

Countries subject to basic quotas under Article 30 (1)

Brazil
Dominican Republic
Equatorial Guinea
Ghana
Ivory Coast
Mexico
Nigeria
Togo
United Republic of Cameroon

ANNEX B

Countries producing less than 10 000 tonnes of bulk cocoa annually

Country	Production in thousands of tonnes	
	1972/73	1973/74
Malaysia	7·0	10·0
Sierra Leone	6·6	7·7
Zaire	5·0	5·0
Gabon	5·0	5 0
Philippines	3·5	4·0
Haiti	3·5	3·5
Liberia	3·0	3·1
Congo	2·1	2·1
Cuba	2·0	2·0
Peru	2·0	2·0
Bolivia	1·4	1·4
New Hebrides	0·8	0·7
Angola	0·6	0·7
Guatemala	0·6	0·7
Nicaragua	0·6	0·6
United Republic of Tanzania	0·6	0·6
Uganda	0·5	0·5
Honduras	0·3	0·3
	45·1	49·9

Source: Quarterly Bulletin of Cocoa Statistics (Vol. I, No 4).

ANNEX C

Fine or flavour cocoa producers

1. *Exporting countries producing exclusively fine or flavour cocoa*

Dominica

Ecuador

Grenada

Indonesia

Jamaica

Madagascar

Panama

Sri Lanka

St. Lucia

St. Vincent

Surinam

Trinidad and Tobago

Venezuela

Western Samoa

2. *Exporting countries producing fine or flavour cocoa, but not exclusively*

	Production in thousands of tonnes	
	1972/73	1973/74 [1]
Costa Rica (25 %)	5·0	6·0
São Tome and Principe (50 %)	11·3	10·4
Papua New Guinea (75 %)	23·1	30·0
	39·4	46·4

Source: *Quarterly Bulletin of Cocoa Statistics* (Vol. I, No 4).

ANNEX D

Imports of cocoa calculated for the purposes of Article 10 (1)

Country	1972	1973	1974	Average	Percentage
	(in thousands of tonnes)				
United States of America	399·8	357·3	315·7	357·6	22·89
Federal Republic of Germany	179·5	188·4	186·6	184·8	11·83
United Kingdom of Great Britain and Northern Ireland	161·5	145·4	158·0	155·0	9·92
Kingdom of the Netherlands	151·9	144·9	144·7	147·2	9·42
Union of Soviet Socialist Republics	143·7	130·1	162·8	145·5	9·31
France	77·6	78·4	81·9	79·3	5·08
Japan	55·4	59·7	38·3	51·1	3·27
Italy	44·3	47·0	45·0	45·4	2·91
Belgium/Luxembourg	36·8	36·4	37·3	36·8	2·36
Spain	38·7	35·8	34·9	36·5	2·34
Canada	39·1	34·9	30·0	34·7	2·22
Poland	32·1	30·6	31·9	31·5	2·02
Switzerland	28·8	31·7	27·7	29·4	1·88
Australia	24·7	19·8	28·0	24·2	1·55
German Democratic Republic	24·4	21·1	22·2	22·6	1·45
Czechoslovakia	20·8	19·3	21·2	20·4	1·31
Austria	17·1	16·7	15·0	16·3	1·04
Ireland	14·3	16·3	16·0	15·5	0·99
Yugoslavia	14·5	12·1	19·1	15·2	0·97
Hungary	14·2	12·1	14·6	13·6	0·87
Sweden	13·8	11·5	11·9	12·4	0·79
Argentina	11·2	11·1	13·3	11·9	0·76
Bulgaria	11·8	8·4	8·5	9·6	0·61
South Africa	9·7	8·2	8·5	8·8	0·56
Romania	7·8	7·5	8·4	7·9	0·51
Norway	9·4	7·6	6·8	7·9	0·51
Denmark	8·7	7·3	6·1	7·4	0·47
Colombia	7·7	6·0	6·2	6·6	0·42
New Zealand	6·2	4·8	7·4	6·1	0·39
Finland	6·0	5·8	6·5	6·1	0·39
Portugal	3·7	3·7	2·9	3·4	0·22
Philippines	4·9	2·8	2·6	3·4	0·22
Chile	2·9	2·7	2·3	2·6	0·17
Peru	3·6	2·4	1·3	2·4	0·15
Algeria	1·1	1·1	1·1	1·1	0·07
India	0·7	0·7	0·8	0·7	0·05
Tunisia	0·8	0·4	0·7	0·6	0·04
Uruguay	0·6	0·5	0·5	0·5	0·03
Honduras	0·1	0·1	0·1	0·1	0·01
TOTAL	1 629·9	1 530·6	1 526·8	1 562·1	100·00

Source: Quarterly Bulletin of Cocoa Statistics (Vol. I, No 4).
(1) Three-year average 1972 to 1974, of net imports of cocoa beans plus gross imports of cocoa products, converted to beans equivalent by using the conversion factors in Article 32 (2).

ANNEX E

Exporting countries to which Article 36 (2) applies

Brazil

Dominican Republic

Mexico

ANNEX F

Basic quotas calculated for the purposes of Article 69 (1) and (2) (1)

Exporting countries	Production (in thousands of tonnes)	Basic quotas (percentages)
Ghana	409·8	32·5
Nigeria	247·7	19·6
Ivory Coast	196·3	15·5
Brazil	189·7	15·0
United Republic of Cameroon	112·0	8·9
Dominican Republic	37·1	2·9
Mexico	27·3	2·2
Togo	23·1	1·8
Equatorial Guinea	19·6	1·6
	1 262·6	100·0

Source: *Quarterly Bulletin of Cocoa Statistics*, Vol. I, No 4 (with the exception of the figure for 1973/74 for Dominican Republic which was provided by the delegation of that country to the United Nations Cocoa Conference 1975).

(1) Calculated on the basis of the average of production in the years 1969/70 to 1973/74.

Information on the entry into force of the International Cocoa Agreement 1975

In accordance with the Council Decision of 28 September 1976 [1], the European Economic Community deposited the instrument of notification of the provisional implementation of the International Cocoa Agreement 1975 with the United Nations Secretary-General on 29 September 1976.

This Agreement entered into force provisionally on 1 October 1976.

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[1] See page 29 of this Official Journal.