II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 31 March 1982

on the signature and notification of provisional application of the Sixth International Tin Agreement

(82/809/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 Sixth International Tin Agreement is open for signature until 30 April 1982; whereas the said Agreement constitutes an instrument for the regulation of international trade, having as its principal objective the balancing of tin supply and demand with a view to stabilizing the price of tin taking account of conditions on the market; whereas the application of the said Agreement by the Community will contribute to the implementation of its common commercial policy;

Whereas the Community should therefore sign this Agreement and give notification to the Secretary-General of the United Nations Organization that it intends to apply the Agreement provisionally, subject to its subsequent approval,

HAS DECIDED AS FOLLOWS:

Article 1

By 30 April 1982 the Community will sign the Sixth International Tin Agreement, in accordance with Article 51 thereof, and will give notification to the Secretary-General of the United Nations Organization, in accordance with Article 53 of the Agreement, that it will apply the Agreement provisionally, as a consumer member, when it enters into force in accordance with Article 55 [1].

Article 2

The President of the Council is hereby authorized to designate the person empowered to sign the Agreement, and to deposit the notification of provisional application of the Agreement.

The texts of the notification of application and of the Agreement are annexed to this Decision.

Done at Brussels, 31 March 1982.

For the Council

The President

P. de KEERSMAEKER

[1] See page 36 of this Official Journal.

ANNEX I

Notification of provisional application of the Sixth International Tin Agreement

In accordance with Article 53 of the Sixth International Tin Agreement, the Council of the European Communities hereby notifies the Secretary-General of the United Nations Organization, the depositary of the Agreement, that it intends to put into operation the institutional procedure required for approval of the Agreement and that the Community, as a consumer member, will apply the Agreement provisionally when it enters into force in accordance with Article 55 of the Agreement.

ANNEX II

SIXTH INTERNATIONAL TIN AGREEMENT

PREAMBLE

THE PARTIES TO THIS AGREEMENT,

recognizing:

(a) the significant assistance to economic growth, especially in developing producing countries, that can be given by commodity agreements in helping to secure stabilization of prices and steady development of export earnings and of primary commodity markets;

(b) the community and interrelationship of interests of, and the value of continued cooperation between, producing and consuming countries in order to support the purposes and principles of the United Nations and the United Nations Conference on Trade and Development and to resolve problems relevant to tin by means of an international commodity agreement, taking into account the role which the International Tin Agreement can play in the establishment of a new international economic order;

(c) the exceptional importance of tin to numerous countries whose economy is heavily dependent upon favourable and equitable conditions for its production, consumption or trade;

(d) the need to protect and foster the health and growth of the tin industry, especially in the developing producing countries, and to ensure adequate supplies of tin to safeguard the interests of consumers;

(e) the importance to tin-producing countries of maintaining and expanding their import purchasing power; and

(f) the desirability of improving efficiency in the use of tin in both the developing and industrialized countries, as an aid to the conservation of world tin resources,

HAVE AGREED AS FOLLOWS:

CHAPTER I — OBJECTIVES

Article 1

Objectives

The objectives of this Agreement are:

(a) to provide for adjustment between world production and consumption of tin and to alleviate serious difficulties arising from surplus or shortage of tin, whether anticipated or real;

(b) to prevent excessive fluctuations in the price of tin and in export earnings from tin;

(c) to make arrangements which will help to increase the export earnings from tin, especially those of the developing producing countries, so as to provide such countries with resources for accelerated economic growth and social development, while at the same time taking into account the interests of consumers;

(d) to ensure conditions which will help to achieve a dynamic and rising rate of production of tin on the basis of a remunerative return to producers, which will help to secure an adequate supply at prices fair to consumers and to provide a long-term equilibrium between production and consumption;

(e) to prevent widespread unemployment or under-employment and other serious difficulties which may result from maladjustments between the supply of and the demand for tin;

(f) to improve further the expansion in the use of tin and the indigenous processing of tin, especially in the developing producing countries;

(g) in the event of a shortage of supplies of tin occurring or being expected to occur, to take steps to secure an increase in the production of tin and a fair distribution of tin metal in order to mitigate serious difficulties which consuming countries might encounter;

(h) in the event of a surplus of supplies of tin occurring or being expected to occur, to take steps to mitigate serious difficulties which producing countries might encounter;

(i) to review disposals of non-commercial stocks of tin by Governments and to take steps which would avoid any uncertainties and difficulties which might arise;

(j) to keep under review the need for the development and exploitation of new deposits of tin and for the promotion, through *inter alia* the technical and financial assistance resources of the United Nations and other organizations within the United Nations system, of the most efficient methods of mining, concentration and smelting of tin ores;

(k) to promote the development of the tin market in the developing producing countries in order to encourage a more important role for them in the marketing of tin; and

(l) to continue the work of the International Tin Council under the Fifth International Tin Agreement (hereinafter referred to as 'the Fifth Agreement') and previous International Tin Agreements.

CHAPTER II — **DEFINITIONS**

Article 2

Definitions

For the purposes of this Agreement:

Tin means tin metal, any other refined tin or the tin content of concentrates or tin ore which has been extracted from its natural occurrence. For the purposes of this definition, 'ore' shall be deemed to exclude (a) material which has been extracted from the ore body for a purpose other than that of being dressed, and (b) material which is discarded in the process of dressing.

Tin metal means refined tin of good merchantable quality assaying not less than 99·75 %.

Buffer stock means the buffer stock established by Article 21 and operated in accordance with Chapter XIII of this Agreement.

Government guarantees/government undertakings means the financial obligations to the Council which are committed by members as security for financing the additional buffer stock in accordance with Article 21. They may, when relevant, be provided by the appropriate agencies of the members concerned. Members shall be liable to the Council up to the amount of their guarantees/undertakings.

Tin metal held means the metal holding of the buffer stock, including metal which has been bought for the buffer stock but not yet received, and excluding metal which has been sold from the buffer stock but not yet delivered, by the buffer stock manager.

Tonne means a metric ton, i.e. 1 000 kilograms.

Control period means a period which has been so declared by the Council and for which a total permissible export tonnage has been fixed.

Quarter means a calendar quarter beginning on 1 January, 1 April, 1 July or 1 October.

Net exports means the amount exported in the circumstances set out in part one of Annex C to this Agreement less the amount imported as determined in accordance with part two of the same Annex.

Member means a country whose Government has ratified, accepted, approved or acceded to this Agreement or has notified the depositary under Article 53 that it will apply this Agreement provisionally, or an organization meeting the requirements of Article 56.

Producing member means a member which the Council has declared, with the consent of that member, to be a producing member.

Consuming member means a member which the Council has declared, with the consent of that member, to be a consuming member.

A *simple majority* is attained if a motion is supported by a majority of the votes cast by members.

A *simple distributed majority* is attained if a motion is supported by both a majority of the votes cast by

producing members and a majority of the votes cast by consuming members.

A *two-thirds distributed majority* is attained if a motion is supported by both a two-thirds majority of the votes cast by producing members and a two-thirds majority of the votes cast by consuming members.

Entry into force means, except when qualified, the initial entry into force of this Agreement, whether such entry into force is definitive or provisional in accordance with Article 55.

Financial year means a period of one year beginning on 1 July and ending on 30 June of the next year.

A *session* shall comprise one or more meetings of the Council.

PART ONE

THE INTERNATIONAL TIN COUNCIL: CONSTITUTIONAL PROVISIONS

CHAPTER III — INTERNATIONAL TIN COUNCIL

Article 3

The continuation and the seat of the International Tin Council

1. The International Tin Council (hereinafter referred to as 'the Council'), established by the previous International Tin Agreements, shall continue in being for the purpose of administering the Sixth International Tin Agreement, with the membership, powers and functions provided for in this Agreement.

2. The seat of the Council shall be in the territory of a member.

3. Subject to the requirement in paragraph 2 of this Article, the seat of the Council shall be in London, unless the Council, by a two-thirds distributed majority, decides otherwise.

Article 4

Composition of the Council

1. The Council shall be composed of all the members.

2. (a) Each Member shall be represented in the Council by one delegate and may designate alternates and advisers to attend its sessions.

(b) An alternate delegate shall be empowered to act and vote on behalf of the delegate during the latter's absence or in other special circumstances.

Article 5

Categories of membership

1. Each member shall be declared by the Council, with the consent of the member concerned, to be a producing or a consuming member, as soon as possible after receipt by the Council of notice from the depositary that such member has deposited its instrument of ratification, acceptance, approval or accession under Article 52 or 54, or has given notification under Article 53 that it will apply this Agreement provisionally.

2. The membership of producing members and consuming members shall be based respectively on their domestic mine production and their consumption of tin metal, provided that:

(a) the membership of a producing member which consumes a substantial proportion of tin metal derived from its own domestic mine production shall, with the consent of that member, be based on its exports of tin; and

(b) the membership of a consuming member which produces from its own domestic mines a substantial proportion of the tin it consumes shall, with the consent of that member, be based on its imports of tin.

3. In its instrument of ratification, acceptance, approval or accession, or in its notification under Article 53 that it will apply this Agreement provisionally, each Government may state the category of membership to which it considers that it should belong.

4. At its first session after the entry into force of this Agreement, the Council shall take the decisions necessary for the application of this Article, with the approval of producing members accounting for more that 50 % of their total percentages of production as set out in Annex A to this Agreement and of consuming members accounting for more than 50 % of their total percentages of consumption as set out in Annex B to this Agreement.

Article 6

Change of category

1. Where on the basis of the statistical position a member has changed from the position of a producing to that of a consuming member, or vice versa, the Council shall, on the request of that member or on its own initiative with the member's consent, consider the new position, decide the change of category and determine the percentage that would be applicable in accordance with the provisions of paragraph 4 of Article 14.

2. From the date of coming into effect of the percentage referred to in paragraph 1 of this Article, the member concerned shall cease to hold any of the rights and privileges, or to be bound by any of the obligations, under this Agreement which pertain to members in its previous category, except any undischarged financial or other obligations incurred by the member in its previous category, and shall acquire all the rights and privileges, and shall be bound by all the obligations, under this Agreement which pertain to members in its new category.

CHAPTER IV — POWERS AND FUNCTIONS

Article 7

Powers and functions of the Council

The Council:

(a) shall have such powers and perform such functions as may be necessary for the administration and operation of this Agreement;

(b) shall have the power to borrow for the purposes of the administrative account established under Article 17, or of the buffer stock account in accordance with Article 24;

(c) shall receive from the executive chairman, whenever it so requests, such information with regard to the holdings and operations of the buffer stock as it considers necessary to fulfil its functions under this Agreement;

(d) may request members to furnish available data concerning tin production, the production costs of tin, the level of tin production, tin consumption, international trade in and stocks of tin, and any other information necessary for the satisfactory administration of this Agreement not inconsistent with the national security provisions as laid down in Article 47, and members shall furnish to the fullest extent possible the information so requested;

(e) shall establish buffer stock operational rules which shall include *inter alia* financial measures to be applied to members which fail to meet their obligations under Article 22;

(f) shall publish after the end of each financial year a report on its activities for that year;

(g) shall publish after the end of each quarter, but not earlier than three months after the end of that quarter, unless the Council decides otherwise, a statement showing the tonnage of tin metal held in the buffer stock at the end of that quarter;

(h) shall make whatever arrangements are appropriate for consultation and cooperation with:

(i) the United Nations, its appropriate organs, particularly the United Nations Conference on Trade and Development, the specialized agencies, other organizations within the United Nations system and appropriate intergovernmental organizations; and

(ii) non-members which are members of the United Nations or members of its specialized agencies or which were parties to the previous International Tin Agreements.

Article 8

Procedures of the Council

The Council:

(a) shall establish its own rules of procedure;

(b) may make whatever arrangements it considers necessary to advise the executive chairman when the Council is not in session;

(c) may at any time:

(i) by a two-thirds distributed majority, delegate to any of the subsidiary bodies referred to in Article 9 any power which the Council may exercise by a simple distributed majority, other than those relating to:

— assessment and apportionment of contributions under Articles 20 and 22 respectively,

— floor and ceiling prices under Articles 27 and 31,

— assessment of export control under Articles 32, 33, 34, 35 and 36, or

— action in the event of a tin shortage under Article 40; and

(ii) by a simple majority, revoke any delegation of powers to any subsidiary body.

Article 9

Subsidiary bodies of the Council

1. The following subsidiary bodies established by the Council under previous International Tin Agreements shall continue in being to assist the Council in the performance of its functions:

(a) Economic and Price Review Panel;

(b) Administrative Committee;

(c) Buffer Finance Committee;

(d) Committee on Costs and Prices;

(e) Committee on Development;

(f) Credentials Committee; and

(g) Statistical Committee.

2. The Council may establish such other subsidiary bodies as it deems necessary.

3. The Council shall, by a two-thirds distributed majority, determine the membership and terms of reference of its subsidiary bodies.

4. Any subsidiary body may, unless the Council decides otherwise, establish its own rules of procedure.

5. Notwithstanding the continuation of the subsidiary bodies provided for in paragraph 1 of this Article, the Council may at any time terminate any subsidiary body.

Article 10

Statistics and studies

The Council:

(a) shall make arrangements for the estimation, at least once in every quarter, of the probable production and consumption of tin during the following quarter or quarters, with a view to assessing the total statistical tin position for that period, and in this connection may take into account such other factors as are relevant;

(b) shall make arrangements for the continuing study of the production costs of tin, the level of tin production, price trends, market trends and the short-term and long-term problems of the world tin industry, and to this end shall undertake or promote such studies on problems of the tin industry as it deems appropriate;

(c) shall keep itself informed of new uses of tin and the development of substitute products which might replace tin in its traditional uses; and

(d) shall encourage closer relationships with and wider participation in organizations devoted to research into the efficient exploration for and production, processing and use of tin.

CHAPTER V — ORGANIZATION AND ADMINISTRATION

Article 11

Executive chairman and vice-chairmen of the Council

1. The Council shall, by a two-thirds distributed majority and by ballot, appoint an independent executive chairman, who may be a national of one of the members. The appointment of the executive chairman shall be considered at the first session of the Council after the entry into force of this Agreement.

2. A person shall not be eligible for appointment as executive chairman if he has been actively

engaged in the tin industry or in the tin trade during the five years preceding the time of the appointment.

3. A member of the staff of the Council shall not be excluded from appointment as executive chairman by virtue of paragraph 2 of this Article.

4. The executive chairman shall hold office for such period and on such other terms and conditions as the Council may determine.

5. The executive chairman shall convene sessions and preside over meetings of the Council; he shall have no vote.

6. The Council shall elect annually two vice-chairmen, one from among the delegates of the producing members and one from among the delegates of the consuming members. The two vice-chairmen shall be designated respectively first vice-chairman and second vice-chairman. The first vice-chairman shall be selected for each alternate year from producing members and consuming members respectively.

7. If the executive chairman resigns or is permanently unable to perform his duties, the Council shall appoint a new executive chairman in accordance with the procedure provided for in paragraph 1 of this Article. Pending such appointment, or during temporary absences of the executive chairman, he shall be replaced by the first vice-chairman, or if necessary by the second vice-chairman, who shall have only the duties of presiding over meetings, unless the Council decides otherwise. The Council shall also provide in its rules of procedure for the appointment of an acting chief executive officer responsible for the administration and operation of this Agreement in accordance with Article 13, during temporary absences of the executive chairman, or pending the appointment of a new executive chairman in accordance with this paragraph.

8. Where a vice-chairman replaces the executive chairman in pursuance of paragraph 7 of this Article he shall have no vote; the right to vote of the member he represents may be exercised in accordance with the provisions of paragraph 2 (b) of Article 4 or paragraph 3 of Article 15.

Article 12

Sessions of the Council

1. The Council shall, unless it decides otherwise, hold four sessions a year.

2. (a) Sessions shall be convened by the executive chairman or, after consultation with the first vice-chairman, by the acting chief executive officer. The Council, in addition to meeting in the other circumstances specifically provided for in this Agreement, shall also meet:

(i) at the request of any five members; or

(ii) at the request of members holding together at least 250 votes; or

(iii) at the discretion of the executive chairman.

(b) The Secretary-General of the United Nations shall convene the first session of the Council under this Agreement to begin within eight days after its entry into force.

3. Sessions shall, unless otherwise decided by the Council, be held at the seat of the Council. Notice of sessions shall be given at least 15 days in advance, except in case of emergency, when sessions may be called on 72 hours' notice by the executive chairman, or where the provisions of this Agreement require otherwise.

4. Delegates holding two-thirds of the total votes of all producing members and two-thirds of the total votes of all consuming members shall together constitute a quorum for any meeting of the Council. If, on the day appointed for the opening of any session of the Council, there is not a quorum as defined above, a further meeting shall be convened after not less than seven days, at which delegates holding at least 500 votes of all producing members and at least 500 votes of all consuming members shall together constitute a quorum.

Article 13

The staff of the Council

1. The executive chairman appointed under Article 11 shall be responsible to the Council for the administration and operation of this Agreement in accordance with the decisions of the Council.

2. The executive chairman shall also be responsible for the management of the administrative services and staff.

3. The Council shall appoint a buffer stock manager (hereinafter referred to as 'the manager') and a Secretary of the Council (hereinafter referred to as 'the Secretary') and shall determine the terms and conditions of service of those two officers.

4. The Council shall give instructions to the executive chairman as to the manner in which the manager is to carry out his responsibilities laid down in this Agreement.

5. The executive chairman shall be assisted by the staff considered necessary by the Council. All staff, including the manager and the Secretary, shall be responsible to the executive chairman. The method of appointment and the conditions of employment of the staff shall be approved by the Council.

6. Neither the executive chairman nor members of the staff shall have any financial interest in the tin industry, tin trade, tin transport, tin publicity, or other activities related to tin.

7. In the performance of their duties, neither the executive chairman nor the members of the staff shall seek or receive instructions from any Government or person or authority other than the Council or a person acting on behalf of the Council under the terms of this Agreement. They shall refrain from any action which might reflect on their position as international officials responsible only to the Council. Each member undertakes to respect the exclusively international character of the responsibilities of the executive chairman and the members of the staff and not to seek to influence them in the discharge of their responsibilities.

8. No information concerning the administration or operation of this Agreement shall be revealed by the executive chairman, the manager, the Secretary or other staff of the Council, except as may be authorized by the Council or as is necessary for the proper discharge of their duties under this Agreement.

CHAPTER VI — VOTES IN THE COUNCIL

Article 14

Percentages and votes

1. The producing members shall together hold 1 000 votes. Each producing member shall receive five initial votes; the remainder shall be divided among the producing members as nearly as possible in proportion to their individual percentages of production as set out in the tables established or revised by the Council in accordance with paragraph 3 or 4 of this Article.

2. The consuming members shall together hold 1 000 votes. Each consuming member shall receive five initial votes, or, if there are more than 30 consuming members, the highest whole number so that the total of such initial votes shall not exceed 150; the remainder shall be divided among the consuming members as nearly as possible in proportion to their individual percentages of consumption as set out in the tables established or revised by the Council in accordance with paragraph 3 or 4 of this Article.

3. For the purposes of paragraphs 1 and 2 of this Article, the Council, at its first session, shall establish tables of percentages of production and consumption for producing and consuming members respectively. The tables so established shall take effect immediately.

4. The tables established in accordance with paragraph 3 of this Article shall thereafter be revised by the Council annually and whenever there are changes in membership or in the category of any member. The tables so revised shall take effect immediately.

5. For the purposes of paragraphs 3 and 4 of this Article, the Council shall determine the distribution or redistribution of percentages of production for the producing members in accordance with Annex F to this Agreement.

6. The Council may, by a two-thirds distributed majority, revise Annex F.

7. For the purposes of paragraphs 3 and 4 of this Article, the Council shall determine the distribution or redistribution of percentages of consumption for consuming members on the basis of the average of the consumption of tin of each consuming member for each of the three preceding calendar years.

8. No member shall have more than 450 votes.

9. There shall be no fractional votes.

Article 15

Voting procedure of the Council

1. Each member shall be entitled to cast the number of votes it holds in the Council. When voting, a

member shall not divide its votes. When abstaining, a member shall be deemed not to have cast its votes.

2. Decisions of the Council shall, except where otherwise provided, be taken by a simple distributed majority.

3. Any member may, in a form satisfactory to the Council, authorize any other member to represent its interests and to exercise its voting rights at any session or meeting of the Council.

CHAPTER VII — PRIVILEGES AND IMMUNITIES

Article 16

Privileges and immunities

1. The Council 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 Council shall have in the territory of each member, to the extent consistent with its law, such exemption from taxation on the assets, income and other property of the Council as may be necessary for the discharge of its functions under this Agreement.

3. The Council shall be accorded in the territory of each member such currency exchange facilities as may be necessary for the discharge of its functions under this Agreement.

4. The status, privileges and immunities of the Council in the territory of the host Government shall be governed by a Headquarters Agreement between the host Government and the Council.

PART TWO

FINANCIAL PROVISIONS

CHAPTER VIII — ACCOUNTS AND AUDIT

Article 17

Financial accounts

1. (a) There shall be kept two accounts — the administrative account and the buffer stock account — for the administration and operation of this Agreement.

   (b) The administrative expenses of the Council, including the remuneration of the executive chairman, the manager, the Secretary and the staff, shall be entered into the administrative account.

   (c) Any expenditure which is solely attributable to buffer stock transactions or operations, including expenses for borrowing arrangements, storage, commission and insurance, shall be entered into the buffer stock account by the manager.

   (d) The liability of the buffer stock account for any other type of expenditure shall be decided by the executive chairman.

2. The Council shall not be responsible for the expenses of delegates to the Council or the expenses of their alternates and advisers.

Article 18

Currency of payments

Cash payments to the administrative account by members under Articles 20 and 60, cash payments to the buffer stock account by members under Articles 22 and 23, cash payments from the administrative account to members under Article 60 and cash payments from the buffer stock account to members under Articles 22, 23 and 26 shall be assessed in the currency of the host country and paid in that currency or, at the option of the member concerned, the equivalent of the amount due in the currency of the host country at the rate of exchange on the date of payment may be paid in any currency which is freely convertible into the currency of the host country on foreign exchange markets.

Article 19

Audit

1. The Council shall appoint auditors for the purpose of auditing its books of account.

2. The Council shall, as soon as possible after the end of each financial year, publish the independently audited administrative and buffer stock accounts, provided that such buffer stock accounts shall not be published earlier than three months after the end of the financial year to which they relate.

CHAPTER IX — THE ADMINISTRATIVE ACCOUNT

Article 20

The budget

1. The Council shall, at its first session after the entry into force of this Agreement, approve the budget of income and expenditure of the administrative account for the period between the date of entry into force of this Agreement and the end of the first financial year. Thereafter, it shall approve an annual budget for each financial year. If at any time during any financial year, because of unforeseen circumstances which have arisen or are likely to arise, the balance remaining in the administrative account is likely to be inadequate to meet the administrative expenses of the Council, the Council may approve a supplementary budget for the remainder of that financial year.

2. On the basis of the budgets described in paragraph 1 of this Article, the Council shall assess in the currency of the host country the contribution to the administrative account of each member, which shall be liable to pay its full contribution to the Council on notice of assessment. Each member shall pay, in respect of each vote which it holds on the date of assessment, one two-thousandth of the total amount required.

3. Any member which fails to pay its contribution to the administrative account within six months of the date of notice of assessment may be deprived by the Council of its right to vote. If such a member fails to pay its contribution within 12 months of the date of notice of assessment, the Council may deprive it of any other rights under this Agreement, provided that the Council shall, on receipt of any such outstanding contribution, restore to the member concerned the rights of which it has been deprived under this paragraph.

CHAPTER X — THE BUFFER STOCK ACCOUNT

Article 21

Establishment and size of the buffer stock

In order to achieve the objectives of this Agreement there shall be established *inter alia* a buffer stock consisting of a normal stock of 30 000 tonnes of tin metal to be financed from government contributions, and an additional stock of 20 000 tonnes of tin metal to be financed from borrowing, using as security stock warrants and, if necessary, government guarantees/government undertakings.

Article 22

Financing of the normal buffer stock

1. The financing of the normal buffer stock shall at all times be shared equally between producing and consuming members. Such financing may, where relevant, be provided by the appropriate agencies of the members concerned.

2. An initial contribution amounting to the cash equivalent of 10 000 tonnes of tin metal shall be due on entry into force of this Agreement. Subsequent contributions amounting to the cash equivalent of the remaining 20 000 tonnes of tin metal shall become due on such date or dates as the Council may determine.

3. The contributions referred to in paragraph 2 of this Article shall be apportioned by the Council among members in accordance with their respective percentages of production or consumption as set out in the tables established or revised by the Council in accordance with paragraph 3 or 4 of Article 14 which are in effect at the time of the apportionment of contributions.

4. The amounts of the contributions referred to in paragraph 2 of this Article shall be determined on the basis of the floor price in effect at the date when the contributions are called.

5. The initial contribution of a member due in accordance with paragraph 2 of this Article may, with the consent of that member, be made by transfer from the buffer stock account held under the Fifth Agreement.

6. If at any time the Council holds cash assets in the buffer stock account the total amount of which

exceeds the cash equivalent of 10 000 tonnes of tin metal at the prevailing floor price, the Council may authorize refunds out of such excess to members in proportion to the contributions they have made under this Article. At the request of a member, the refund to which it is entitled may be retained in the buffer stock account.

7. Whilst this Agreement is in force provisionally, and notwithstanding the provisions of paragraphs 2 and 3 of this Article, the contribution of a member to be apportioned by the Council shall not exceed 125 % of its contribution based on its percentage of production or consumption as set out in Annex A or B to this Agreement.

Article 23

Arrears in contributions to the buffer stock account

1. If a member does not fulfil its obligation to contribute to the buffer stock account by the date such contribution becomes due, it shall be considered to be in arrears. A member in arrears for 60 days or more shall not count as a member for the purpose of a decision by the Council under paragraph 2 of this Article.

2. The voting and other rights in the Council of a member in arrears for 60 days or more under paragraph 1 of this Article shall be suspended, unless the Council by a two-thirds distributed majority, decides otherwise, provided that any delay in the fulfilment of a member's obligation to contribute to the buffer stock account shall not be regarded as arrears for the purposes of this paragraph if such delay has occurred exclusively in respect of that part of the contribution which exceeds the amount corresponding to its share of the estimated cost given in Annex G to this Agreement.

3. The Council may call for coverage of arrears by other members on a voluntary basis.

4. When the default has been remedied to the satisfaction of the Council, the voting and other rights of the member in arrears shall be restored. If the arrears have been made good by other members, these members shall be fully reimbursed.

Article 24

Borrowing for the buffer stock

1. The Council may borrow for the purposes of the buffer stock and upon the security of tin warrants held by the buffer stock such sum or sums as it deems necessary. The terms and conditions of any such borrowings shall be approved by the Council.

2. The Council may, by a two-thirds distributed majority, make any other arrangements it sees fit in order to supplement its resources.

3. All charges connected with these borrowings and arrangements shall be assigned to the buffer stock account.

Article 25

Relationship with the Common Fund for Commodities

When the Common Fund becomes operational the Council shall negotiate with the Fund for mutually acceptable terms and modalities for an association agreement with the Common Fund, in order to seek to take full advantage of the facilities of the Fund.

CHAPTER XI — LIQUIDATION OF THE BUFFER STOCK

Article 26

Liquidation procedure

1. On the termination of this Agreement, all buffer stock operations under Article 28, 29, 30 or 31 shall cease. The manager shall thereafter make no further purchase of tin and may sell tin only as authorized by paragraph 2, 3 or 8 of this Article.

2. Unless the Council substitutes other arrangements for those contained in this Article, the manager shall, in connection with the liquidation of the buffer stock, take the steps set out in paragraphs 3, 4, 5, 6, 7, 8 and 11 of this Article.

3. As soon as possible after the termination of this Agreement, the manager shall set aside from the bal-

ance remaining in the buffer stock account a sum which, in his estimation, is sufficient to repay any borrowings which may be outstanding under Article 24, and to meet the total expenses of liquidation of the buffer stock in accordance with the provisions of this Article. Should the balance remaining in the buffer stock account be inadequate for these purposes, the manager shall sell sufficient tin over such period and in such quantities as the Council may decide in order to provide the additional sum required.

4. Subject to and in accordance with the terms of this Agreement, the share of each member in the buffer stock shall be refunded to that member.

5. For the purpose of ascertaining the share of each member in the buffer stock, the manager shall adopt the following procedure:

(a) the contributions made by each member in cash to the buffer stock shall be determined;

(b) all the tin held by the manager on the date of termination of this Agreement shall be valued on the basis of an appropriate price for tin on that date on a recognized market to be agreed by the Council, and an amount to that value shall be added to the total cash held by him at that date after setting aside a sum as required by paragraph 3 of this Article;

(c) if the total arrived at under subparagraph (b) above is greater than the sum total of all the contributions made to the buffer stock by all members, the surplus shall be apportioned among members in proportion to the total contributions to the buffer stock of each member determined in accordance with subparagraph (a) above, multiplied by the number of days that such contributions have been at the disposal of the manager on the termination of this Agreement. For the purpose of calculating the number of days that a contribution has been at the disposal of the manager neither the day on which the contribution was received by him nor the day of the termination of this Agreement shall be counted. The amount of surplus so apportioned to each member shall be added to the total of the contributions of that member determined in accordance with subparagraph (a) above. In calculating the apportionment of such a surplus a forfeited contribution shall not be regarded as having been at the disposal of the manager during the period of forfeiture;

(d) if the total arrived at under subparagraph (b) above is less than the sum of all the contributions made to the buffer stock by all members, the deficit shall be apportioned among members in proportion to their total contributions. The amount of the deficit so apportioned to each member shall be deducted from the total of the contributions of that member determined in accordance with subparagraph (a) above;

(e) the result of the foregoing calculation shall, in the case of each member, be treated as its share of the buffer stock.

6. Subject to the provisions of paragraph 3 of this Article, the share of each member in the cash and tin available for distribution in accordance with paragraph 5 of this Article shall be allocated to it, provided that if any member has forfeited the whole or part of its rights to participate in the proceeds of the liquidation of the buffer stock by virtue of Article 20, 23, 36, 48 or 58, it shall to that extent be excluded from the refund of its share and the resulting residue shall be apportioned among the other members in proportion to their respective shares in the buffer stock.

7. The ratio of tin to cash allocated under the provisions of paragraphs 4, 5 and 6 of this Article to each member shall be the same.

8. (a) Each member shall be repaid the cash allocated to it as the result of the procedure set out in paragraph 5 of this Article.

(b) The tin so allocated to each member shall be transferred to it in such instalments and over such period as the Council may deem appropriate, provided that, if the total quantity of tin to be transferred to members is less than 30 000 tonnes, the period shall not exceed 24 months from the termination of this Agreement. If the total quantity of tin is 30 000 tonnes or more, it shall be transferred to members at an average rate of 10 000 tonnes in each period of 12 months from the termination of this Agreement.

(c) In making each transfer, the Council shall have regard *inter alia* for:

(i) the total quantity of tin available for distribution;

(ii) the effects that the release of such quantity of tin may have on the market; and

(iii) the interests of members with a view to ensuring continued supply of tin.

(d) At the option of any member any such instalment may be sold and the net proceeds of such sale paid to that member.

9. Notwithstanding the liquidation procedure provided for in this Article, any tin allocated to members in accordance with paragraph 8 of this Article may be transferred to the buffer stock of a subsequent International Tin Agreement.

10. Any tin allocated to a member which is not a party to a succeeding International Tin Agreement shall be returned to that member not later than six months after the termination of this Agreement.

11. When all the tin has been disposed of in accordance with paragraph 8 of this Article, the manager shall distribute among members any balance remaining of the sum set aside under paragraph 3 of this Article in the proportions allocated to each member in accordance with paragraph 5 of this Article.

PART THREE

ECONOMIC PROVISIONS

CHAPTER XII — FLOOR AND CEILING PRICES

Article 27

Floor and ceiling prices

1. For the purposes of this Agreement there shall be floor and ceiling prices for tin metal, which shall be expressed in Malaysian ringgit or in any other currency which the Council may decide. The range between the floor and ceiling prices shall be 30 % of the floor price and shall be divided into three equal sectors.

2. Notwithstanding the provisions of paragraph 1 of this Article, the initial floor and ceiling prices shall be those in effect under the Fifth Agreement at the date of termination of that Agreement.

3. At its first session after the entry into force of this Agreement, and thereafter on the basis of continuing studies conducted by the Economic and Price Review Panel or by such other body as the Council may decide, or in accordance with the provisions of Article 31, the Council shall review, and may revise, the floor and ceiling prices with a view to attaining the objectives of this Agreement.

4. If the Council does not determine new floor and ceiling prices at its first session after the entry into force of this Agreement, the floor price shall remain the same as that in effect at the date of the termination of the Fifth Agreement and the ceiling price shall be 130 % of the floor price.

5. In conducting its reviews of floor and ceiling prices, the Council shall take into account the short-term developments and the various levels and trends of tin production and consumption, the production costs of tin, the existing capacity for mine production, the adequacy of the current price to maintain sufficient future mine production capacity and other relevant factors affecting movements in the price of tin.

6. The Council shall publish without delay any revised floor and ceiling prices, including any provisional or revised price determined under Article 31.

CHAPTER XIII — MANAGEMENT OF BUFFER STOCK OPERATIONS

Article 28

Operation of the buffer stock

1. The manager shall, in conformity with Article 13 and within the provisions of this Agreement and the framework of instructions of the Council, be responsible to the executive chairman for the operation of the buffer stock.

2. For the purposes of this Article, the market price of tin shall be the price of tin in that market recognized by the Council at the termination of the Fifth Agreement or such other price as the Council may at any time decide.

3. If the market price of tin:

(a) is equal to or greater than the ceiling price, the manager shall, unless instructed by the Council

to operate otherwise and subject to Articles 29 and 31, offer for sale at the market price on recognized markets such tin as is at his disposal until the market price of tin falls below the ceiling price or the tin at his disposal is exhausted;

(b) is in the upper sector of the range between the floor and ceiling prices, the manager may operate on recognized markets at the market price in order to prevent the market price from rising too steeply, provided he is a net seller of tin;

(c) is in the middle sector of the range between the floor and ceiling prices, the manager may operate only if so authorized by a two-thirds distributed majority of the Council;

(d) is in the lower sector of the range between the floor and ceiling prices, the manager may operate on recognized markets at the market price in order to prevent the market price from falling too steeply, provided he is a net buyer of tin; or

(e) is equal to or less than the floor price, the manager shall, unless instructed by the Council to operate otherwise, if he has funds at his disposal and subject to Articles 29 and 31, offer to buy tin on recognized markets at the market price until the market price of tin is above the floor price or the funds at his disposal are exhausted.

4. For the purposes of this Agreement recognized markets shall be taken to mean the Penang Straits Tin Market, the London Metal Exchange, and/or any other market which may from time to time be recognized by the Council for the purposes of the operation of the buffer stock.

5. The manager may engage in forward transactions under paragraph 3 of this Article only if these will be completed before the termination date of this Agreement or before some other date after the termination of this Agreement as determined by the Council.

Article 29

Restriction or suspension of buffer stock operations

1. Notwithstanding the provisions of paragraph 3 (b) and (d) of Article 28 the Council may restrict or suspend forward transactions of tin when the Council considers it necessary to achieve the purposes of this Agreement.

2. Notwithstanding the provisions of paragraph 3 (a) and (e) of Article 28 the Council, if in session, may restrict or suspend the operations of the buffer stock if, in its opinion, the discharge of the obligations laid upon the manager by those subparagraphs will not achieve the purposes of this Agreement.

3. At such times as the Council is not in session, the power to restrict or suspend operations under paragraph 2 of this Article shall be vested in the executive chairman.

4. The executive chairman may at any time revoke a restriction or suspension made under paragraph 3 of this Article.

5. Immediately after a decision by the executive chairman to restrict or suspend the operations of the buffer stock under paragraph 3 of this Article, he shall convene a session of the Council to review such decision. Such session shall be held within 14 days after the date of the restriction or suspension.

6. The Council may confirm or cancel any restriction or suspension under paragraph 3 of this Article. If the Council does not come to a decision, buffer stock operations shall continue without the restriction or shall be resumed in accordance with the provisions of Article 28.

7. So long as any restriction or suspension of the operations of the buffer stock determined in accordance with this Article remains in force, the Council shall review this decision at intervals of not longer than six weeks. If at a session to make such a review the Council does not come to a decision in favour of the continuation of the restriction or suspension, buffer stock operations shall continue without the restriction or shall be resumed.

Article 30

Other operations of the buffer stock

1. The Council may authorize the manager to buy tin from, or sell tin to or for the account of, a governmental non-commercial stock. The Council may also authorize the manager to buy tin from contributing countries to the buffer stock of the Fifth Agreement from their share of the liquidation of the buffer stock under that Agreement. The provisions of paragraph 3 of Article 28 shall not apply to buying or selling of tin for which authority has been given in accordance with the provisions of this paragraph.

2. Notwithstanding the provisions of Articles 28 and 29, the Council may authorize the manager, if his funds are inadequate to meet his operational expenses, to sell sufficient quantities of tin at the current price to meet expenses.

Article 31

The buffer stock and changes in exchange rates

1. The executive chairman may convene, or any member may request him to convene, a session of the Council immediately to review the floor and ceiling prices if the executive chairman or the member, as the case may be, considers that changes in exchange rates make such a review necessary. Sessions may be convened under this paragraph at less than seven days' notice.

2. In the circumstances set forth in paragraph 1 of this Article, the executive chairman may, pending the session of the Council referred to in that paragraph, provisionally restrict or suspend the operations of the buffer stock, if such a restriction or suspension is in his opinion necessary to prevent buying or selling of tin by the manager to an extent likely to prejudice the purposes of this Agreement.

3. A restriction or a suspension of buffer stock operations under this Article may be confirmed, amended or cancelled by the Council. If the Council does not come to a decision, buffer stock operations, if provisionally restricted or suspended, shall continue without the restriction or shall be resumed.

4. Within 30 days of its decision to confirm, amend or cancel a restriction or a suspension of buffer stock operations under this Article, the Council shall consider the determination of provisional floor and ceiling prices and may determine these prices. If the Council does not determine provisional floor and ceiling prices in accordance with this paragraph, the existing floor and ceiling prices shall, subject to the provisions of paragraph 6 of this Article, remain in effect.

5. Within 90 days from the establishment of provisional floor and ceiling prices the Council shall review these prices and may determine new floor and ceiling prices. If the Council does not determine new floor and ceiling prices in accordance with this paragraph, the provisional floor and ceiling prices shall become the current floor and ceiling prices.

6. If the Council does not determine provisional floor and ceiling prices in accordance with paragraph 4 of this Article, it may at any subsequent session determine what the floor and ceiling prices shall be.

7. Buffer stock operations shall be resumed in accordance with the provisions of Article 28 on the basis of such floor and ceiling prices as are determined in accordance with paragraph 4, 5 or 6 of this Article, as the case may be.

CHAPTER XIV — EXPORT CONTROL

Article 32

Determination of export control

1. When at least 70 % of the maximum volume of the buffer stock established under Article 21, or the maximum volume of the buffer stock established under Article 21 as modified by the financial provisions of paragraph 7 of Article 22, whichever is less, is held in tin metal in the buffer stock, the Council may, by a two-thirds distributed majority, declare a control period.

2. When at least 80 % of the maximum volume of the buffer stock established under Article 21, or the maximum volume of the buffer stock established under Article 21 as modified by the financial provisions of paragraph 7 of Article 22, whichever is less, is held in tin metal in the buffer stock, the Council may declare a control period.

3. In declaring a control period under paragraph 1 or 2 of this Article, the Council shall fix a total permissible export tonnage for producing members for such control period, taking into account the estimates of production and consumption made under subparagraph (a) of Article 10, the quantity of tin metal and cash held in the buffer stock, the quantity, availability and probable trend of other stocks of tin, the trade in tin, the current price of tin metal and any other relevant factors.

4. It shall also be the duty of the Council to adjust supply to demand so as to maintain the price of tin metal between the floor and ceiling prices. The

Council shall also aim to maintain available in the buffer stock tin metal and cash adequate to rectify discrepancies between supply and demand which may arise.

5. The limitation of exports under this Agreement in each control period shall depend on the decision of the Council, and no such limitation shall operate in any period unless the Council has declared it to be a control period and fixed a total permissible export tonnage in respect of it.

6. The Council may declare control periods and fix total permissible export tonnages notwithstanding the restriction or suspension of buffer stock operations in accordance with the provisions of Article 29 or 31.

7. A total permissible export tonnage previously fixed under paragraph 3 of this Article may be increased, but not decreased, by the Council during the control period to which it relates.

8. If, during a control period for which a total permissible export tonnage has been fixed in accordance with paragraph 3 of this Article, the 15-day moving average of the market price of tin remains at or above the upper limit of the lower sector of the price range established under Article 27 for 12 consecutive market days, the permissible export tonnage shall be increased so that the total permissible export tonnage for the whole of that period shall be either:

(a) the level of exports for the corresponding period calculated on the basis of the quarterly average level of exports during the last four consecutive quarters which preceded the control period and which were not declared control periods; or

(b) 110 % of the total permissible export tonnage fixed for that control period;

whichever is the greater.

9. Notwithstanding the provisions of paragraph 8 of this Article, the total permissible export tonnage for that control period shall not be increased if:

(a) a period of less than three months has elapsed since the imposition of export control immediately preceded by an interval during which no limitation of exports was in force and prior to the first of the 12 consecutive market days referred to in paragraph 8 of this Article; or

(b) the latest known market price was in the lower sector of the price range, provided that, if the requirements set forth in paragraph 8 of this Article continue to be met, such increase shall immediately take effect when the market price recovers to the upper limit of that sector or any higher level.

10. For the purposes of this Article the market price of tin shall be the price of tin in the Penang Straits Tin Market, unless the Council decides otherwise.

11. When the Council has declared a control period and has fixed a total permissible export tonnage in respect of that period, the Council may at the same time call upon any country which is also a producer of tin from mines within its territory or territories to put into effect for that period such a limitation of its exports of tin derived from such production as may be agreed to be appropriate between the Council and the country concerned. The Council may also consult with countries which are consumers of tin with a view to improving the effectiveness of controls on supplies of tin coming on to international markets.

12. The Council may consult with consuming members on appropriate measures not inconsistent with other international agreements on trade, with the objective, during a control period, of seeking to provide a preference as regards the import of tin from producing members.

Article 33

Control periods

1. Control periods shall correspond to quarters, provided that, on any occasion when the limitation of exports is being introduced for the first time during the currency of this Agreement or is being re-introduced after an interval during which there has been no limitation of exports, the Council may declare as a control period any period not longer than five months or shorter than two months, ending on 31 March, 30 June, 30 September or 31 December.

2. A total permissible export tonnage which has become effective shall not cease to be effective during the course of the control period to which it relates by reason only of the fact that the buffer stock holding has fallen below the minimum tonnage of tin metal required under paragraphs 1 and 2 of Article 32 or any other tonnage subsituted therefor under those paragraphs.

3. A control period already declared may be cancelled before, or terminated during, the currency of that period by the Council.

4. Notwithstanding the provisions of this Article, if, under the Fifth Agreement, a total permissible export tonnage has been fixed in respect of the last quarter of that Agreement and is still effective at the termination of that Agreement, and unless the Council decides otherwise at its first session:

(a) a control period which is in effect at the time of entry into force of this Agreement shall be deemed to have been declared under this Agreement; and

(b) the total permissible export tonnage for such control period shall be at the same quarterly rate as that fixed under the Fifth Agreement for the last quarter of that Agreement, unless and until revised by the Council in accordance with the provisions of Article 32.

Article 34

Division of total permissible export tonnage

1. The total permissible export tonnage for any control period shall be divided among producing members in proportion to their production or export figures, as appropriate, for the last four consecutive quarters which preceded the control period and which were not declared control periods. In the division of the total permissible export tonnage under this paragraph, the Council shall give due consideration to any circumstances referred to in rule 6 of Annex F to this Agreement, or stated by any producing member as being exceptional according to rule 9 of Annex F, and may, with the consent of other producing members, use for that member production or export figures, as appropriate, relating to another period decided by the Council.

2. (a) Notwithstanding the provisions of paragraph 1 of this Article, the Council may, with the consent of a producing member, reduce its share in the total permissible export tonnage and redistribute the tonnage of the reduction among the other producing members in proportion to the percentages of those members or, if circumstances so require, in some other manner.

(b) The quantity of tin determined according to subparagraph (a) above for any producing member for any control period shall, for the purposes of this Article, be deemed to be the permissible export tonnage of that member for that control period.

3. The net exports of tin from each producing member for each control period shall be limited, except as otherwise provided for in this Agreement, to the permissible export tonnage for that member for that control period.

4. Each producing member shall take such measures as may be necessary to maintain and enforce the provisions of this Article so that its exports shall correspond as closely as possible to its permissible export tonnage for any control period.

5. (a) It shall be the duty of any producing member which considers that it may be unable to export in any control period as much tin as it is entitled to export in accordance with its permissible export tonnage for that control period to make a declaration to that effect to the Council as soon as possible, but in any case not later than two calendar months after the date upon which such permissible export tonnage has become effective.

(b) If the Council has received such a declaration, or is of the opinion that any producing member may be unable to export in any control period as much tin as it is entitled to export in accordance with its permissible export tonnage, the Council may take such steps as will, in its opinion, ensure that the total permissible export tonnage will in fact be exported.

6. For the purposes of this Article, the Council may decide that exports of tin from any producing member shall include the tin content of any material derived from the mineral production of the member concerned.

Article 35

Point of export

Tin shall be deemed to have been exported if, in the case of a member named in Annex C to this Agreement, the formalities set out in that Annex opposite the name of that member have been completed, provided that:

(a) the Council may, from time to time, with the consent of the member concerned, revise Annex

C, and any such revision shall have effect as if it were included in that Annex; and

(b) if any tin is exported from any producing member by any method which is not provided for in Annex C, the Council shall determine whether such tin shall be deemed to have been exported for the purposes of this Agreement and, if so, the time at which such export shall be deemed to have taken place.

Article 36

Penalties relating to export control

1. (a) If, notwithstanding the provisions of Article 34, the net exports of tin from a producing member in any control period exceed its permissible export tonnage for that control period by more than 5 %, the Council may require the member concerned to make an additional contribution to the buffer stock not exceeding the tonnage by which such exports exceed its permissible export tonnage. Such a contribution shall be in tin metal or in cash or in such proportions of tin metal and cash and before such date or dates as the Council may decide. That part, if any, of the contribution which is to be paid in cash shall be calculated at the floor price in effect on the date of the decision. That part, if any, of the contribution which is to be made in tin metal shall be included in and shall not be additional to the permissible export tonnage of the member in question for the control period in which such contribution is due to be made.

(b) If, notwithstanding the provisions of Article 34, the aggregate net exports of tin from a producing member in any four successive control periods, including, if appropriate, the control period referred to in subparagraph (a) above, exceed by more than 1 % the aggregate of its permissible export tonnages for those periods, the permissible export tonnage of that member during each of the four subsequent control periods may be reduced by one-quarter of the aggregate tonnage so over-exported or, if the Council so decides, by any greater fraction not exceeding one-half. Such reduction shall take effect in and from the control period following that in which the decision was taken by the Council.

(c) If, after any four such successive control periods during which the aggregate net exports of tin from a member have exceeded its permissible export tonnage as mentioned in subparagraph (b) above, the aggregate net exports of tin from that member in any four further successive control periods, which shall not include any control period covered by subparagraph (b) above, exceed the aggregate of the permissible export tonnages for those four control periods, the Council may, in addition to reducing the total permissible export tonnage of that member in accordance with the provisions of subparagraph (b) above, declare that the member shall forfeit a part, which shall on the first occasion not exceed one-half, of its rights to participation on liquidation of the buffer stock. The Council may at any time restore to the member concerned the portion of its rights so forfeited on such terms and conditions as it may determine.

(d) It shall be the duty of a producing member which has exported a tonnage of tin in excess of its permissible export tonnage and of any tonnage permitted by Article 34 and by other provisions of this Article to take effective steps to correct its breach of this Agreement at the earliest possible opportunity. The Council, when deciding the action to be taken under this paragraph, shall take account of any failure to take steps or delay in doing so.

2. For the purposes of subparagraphs (a), (b) and (c) of paragraph 1 of this Article, total permissible export tonnages which have been fixed in respect of control periods, tonnages which have been exported in excess of such permissible export tonnages, and penalties which have been imposed, under the Fifth Agreement, shall be deemed, as from the entry into force of this Agreement, to have been fixed, exported or imposed, respectively, under this Agreement.

Article 37

Special exports

1. At any time when it has declared a control period the Council may, by a two-thirds distributed majority, permit the export (hereinafter referred to as 'a special export') of a specified quantity of tin in addition to the permissible export tonnage referred to in paragraph 1 of Article 34 on the condition that:

(a) it considers that the proposed special export is destined to form part of a governmental stockpile; and

(b) it considers that the proposed special export is unlikely to be used for any commercial or industrial purpose during the currency of this Agreement.

2. The Council may, by a two-thirds distributed majority, impose such conditions upon a special export as it deems necessary.

3. If the provisions of Article 39 and the conditions imposed by the Council under paragraph 2 of this Article are fulfilled, a special export shall not be taken into account when the provisions of paragraphs 2 and 4 of Article 34 and paragraph 1 of Article 36 are being applied.

4. The Council may, by a two-thirds distributed majority, at any time revise the conditions in paragraph 1 of this Article, provided that any such revision shall be without prejudice to anything done by a member in pursuance of permission given and conditions already imposed under paragraph 2 of this Article.

Article 38

Special deposits

1. A producing member may at any time, with the consent of the Council, make special deposits of tin metal with the manager. A special deposit shall not be treated as part of the buffer stock and shall not be at the disposal of the manager.

2. A producing member which has informed the Council of its intention of making a special deposit of tin metal originating within its territory shall, subject to furnishing such evidence as the Council may require to identify the metal or the concentrates for conversion into tin metal which is the subject of the special deposit, be permitted to export such metal or concentrates in addition to any permissible export amount that may have been allocated to that member under Article 34 and, subject to the compliance by the producing member with the requirements of Article 39, the provisions of paragraphs 2 and 4 of Article 34 and of paragraph 1 of Article 36 shall not apply to such exports.

3. Special deposits may be accepted by the manager only at such place or places as may be convenient to him.

4. The executive chairman shall notify the members of the receipt of any such special deposit, but not sooner than three months after the date of receipt.

5. A producing member which has made a special deposit of tin metal may withdraw the whole or part of that special deposit in order to fulfil the whole or part of its permissible export amount in any control period. In such a case the amount withdrawn from the special deposit shall be regarded as having been exported for the purposes of export control in the control period in which the withdrawal was made.

6. In any quarter which has not been declared a control period any special deposit shall be at the disposal of the member which has made the deposit, subject only to the provisions of paragraph 8 of Article 39.

7. All charges incurred in connection with any special deposit shall be borne by the member making the deposit and no charges shall be borne by the Council.

Article 39

Stocks held by producing members

1. (a) The stocks of tin held by any producing member which have not been exported within the definition for that member contained in Annex C to this Agreement shall not at any time during a control period exceed the tonnage shown for that member in Annex D to this Agreement.

(b) Such stocks shall not include tin in the course of transport between the mine and the point of export as defined in Annex C.

(c) The Council may revise Annex D, but, if in so doing it has increased the tonnage listed in Annex D for any member, it may impose conditions, including conditions as to period and subsequent export, in relation to any such addition.

2. Any increase in the proportion approved under paragraph (a) of Article 39 of the Fifth Agreement and still operative at the termination of that Agreement and any conditions imposed in connection therewith shall be deemed to have been approved or imposed under this Agreement, unless the Council decides otherwise within six months after the entry into force of this Agreement.

3. Any special deposit made under Article 38 shall be deducted from the amount of stocks permitted under this Article to be held during a control period by the producing member concerned.

4. (a) Where in the territory of a producing member listed in Annex E to this Agreement tin ore is unavoidably extracted from its natural occurrence in the mining of the other minerals mentioned in that Annex and for that reason the limitation of stocks prescribed in paragraph 1 of this Article would unreasonably restrict the mining of those other minerals, additional stocks of tin-in-concentrates may be held within that territory to the extent that these are certified by the Government of that member as having been won exclusively in association with those other minerals and actually retained in the territory of that member, provided that the proportion which such additional stocks bear to the total amount of the other minerals mined shall not at any time exceed the proportion stated in Annex E.

(b) Except with the consent of the Council, the export of such additional stocks shall not commence until after the liquidation of all the tin metal in the buffer stock and the rate of export thereafter shall not exceed one-fortieth of the whole or 250 tonnes, whichever is the greater, in each quarter.

5. Members listed in Annex D or E shall, in consultation with the Council, make regulations governing the maintenance, protection and control of such additional stocks as may be approved in accordance with this Article.

6. The Council may, with the consent of the producing member concerned, revise Annexes D and E.

7. Each producing member shall forward to the Council, at such intervals as the Council may require, statements as to the stocks of tin within its territory which have not been exported in accordance with the definition for that member in Annex C. Such statements shall not include tin in course of transport between the mine and the point of export as defined in Annex C. These statements shall show separately the stock held under paragraph 4 of this Article.

8. A producing member which makes special deposits under Article 38 or which is permitted to increase tonnages in accordance with the provisions of paragraph 1 of this Article shall, not later than 12 months before the termination of this Agreement, inform the Council of its plans for the disposal of such special deposits or the export of all or part of such increased tonnages, but not including additional stocks whose export is governed by paragraph 4 of this Article, and shall consult with the Council as to the best means of making such export without avoidable disruption of the tin market. The producing member concerned shall give due consideration to the recommendations of the Council.

CHAPTER XV — TIN SHORTAGE

Article 40

Action in the event of a tin shortage

1. If, at any time when the price is in or above the upper sector, the Council concludes that a serious shortage of supplies of tin has developed or is likely to develop, the Council:

(a) shall terminate any export control which might be in operation and recommend the level of stocks which should not be exceeded; and

(b) shall recommend to members that they take all possible steps to ensure as rapid an increase as possible in the amount of tin which they are able to make available.

2. The Council shall determine the period of time during which measures provided for in this Article shall remain in effect; such period shall be reckoned in quarters, it being understood that, when these measures are applied for the first time under this Agreement or are applied again after an interval when there was no recognized shortage, the Council may declare as a period of applicability of these measures any period not longer than five months or shorter than one month and ending on 31 March, 30 June, 30 September or 31 December.

3. The Council may cancel any measures taken on the basis of this Article before their coming into effect or terminate them while in progress or extend them from quarter to quarter.

4. In the light of the Council's estimates of production and consumption made under subparagraph (a) of Article 10 and taking into account the amount of tin metal and cash held in the buffer stock and all other relevant factors, in particular the utilization of production capacity, the availability of other tin stocks and the trend in current prices, the Council shall carry out any studies necessary to enable it to estimate total tin demand and availability for the declared period and such subsequent periods as it may determine.

5. The Council may, by a two-thirds distributed majority, invite members to enter into such arrangements with it as may assure consuming members an equitable distribution of the available supplies of tin.

6. The Council may consult with producing members on appropriate measures not inconsistent with other international agreements on trade, with the objective, in the event of a shortage of tin, of seeking to provide a preference as regards the supply of tin to consuming members.

7. The Council shall, at each session held while this Article is in effect, review the results of measures taken under this Article since the preceding session.

PART FOUR

OTHER PROVISIONS

CHAPTER XVI — OBLIGATIONS OF MEMBERS

Article 41

General obligations

1. Members shall during the currency of this Agreement use their best endeavours and cooperate to promote the attainment of its objectives.

2. Members shall accept as binding all decisions of the Council under this Agreement.

3. Without prejudice to the general scope of paragraph 1 of this Article, members shall in particular observe the following:

(a) they shall not, so long as sufficient quantities of tin are available to meet their full requirements, prohibit or limit the use of tin for specified end-uses, except in circumstances in which such prohibition or limitation would not be inconsistent with other international agreements on trade;

(b) they shall create conditions which would encourage the economic exploitation of deposits in accordance with market requirements; and

(c) they shall encourage the conservation of the natural resources of tin by preventing the premature abandonment of deposits.

Article 42

Differential and remedial measures

Developing consuming members, and least-developed countries which are members, whose interests are adversely affected by measures taken under this Agreement may apply to the Council for appropriate differential and remedial measures. The Council shall consider taking such appropriate measures in accordance with paragraph 3 of section III of resolution 93 (IV) of the United Nations Conference on Trade and Development.

Article 43

Consultation

The Council shall consult, at the request of any member, on factors directly affecting supply or demand. The Council may submit its recommendations to members for their consideration.

Article 44

Obstacles to trade

1. The Council shall, in the light of its studies of the tin market, identify obstacles to the expansion of trade in tin, semi-finished tin products and finished tin products.

2. The Council may, taking into account the provisions of paragraph 1 of this Article, adopt recommendations itself, or seek to have recommendations adopted in other appropriate organizations, with a view to reducing, and where possible fully eliminating, such obstacles. The Council shall periodically examine the results achieved through the implementation of such recommendations.

Article 45

Fair labour standards

Members declare that, in order to avoid the depression of living standards and the introduction of unfair competitive conditions in world trade, they will seek to ensure fair labour standards in the tin industry.

Article 46

Disposal of tin from non-commercial stockpiles

1. A member desiring to dispose of tin from its non-commercial stockpile shall, upon adequate notice, consult with the Council concerning its disposal plans.

2. When a member gives notice of a plan to dispose of tin from its non-commercial stockpile, the Council shall promptly enter into official consultations on the plan with that member for the purpose of ensuring adequate fulfilment of the provisions of paragraph 4 of this Article.

3. The Council shall from time to time review the progress of such disposals and may make recommendations to the member concerned. Such member shall give due consideration to the recommendations of the Council.

4. Disposals from non-commercial stockpiles shall be made with due regard to the protection of tin producers, processors and consumers against avoidable disruption of their usual markets and against adverse consequences of such disposals on the investment of capital in exploration and development of new supplies and the health and growth of tin mining in the territory or territories of producing members. The disposals shall be in such amounts and over such periods as will not interfere unduly with production and employment in the tin industry in the territory or territories of producing members and as will avoid creating hardships to the economies of producing members.

Article 47

National security

Nothing in this Agreement shall be construed as requiring a member to furnish any information the disclosure of which it considers contrary to its essential security interests.

CHAPTER XVII — **COMPLAINTS AND DISPUTES**

Article 48

Complaints

1. Any complaint that any member has committed a breach of this Agreement for which a remedy is not provided elsewhere in this Agreement shall, at the request of the member making the complaint, be referred to the Council for decision.

2. Except where otherwise provided in this Agreement, no member shall be found to have committed a breach of this Agreement unless a resolution to that effect is passed. Any such finding shall specify the nature and extent of the breach.

3. If the Council finds under this Article that a member has committed a breach of this Agreement, the Council may, unless some other penalty is provided elsewhere in this Agreement, deprive the member concerned of its voting and other rights until it has remedied the breach or has otherwise fulfilled its obligations.

4. For the purposes of this Article, the expression 'breach of this Agreement' shall be deemed to include the breach of any condition imposed by the Council or failure to fulfil any obligation laid upon a member in accordance with this Agreement.

5. Any member which considers its economic interests under this Agreement seriously injured by action taken by any other member or members, other than action taken in time of war, may complain to the Council.

6. On receipt of such a complaint the Council shall review the facts of the situation and shall, by a majority of the total votes held by all consuming members and a majority of the total votes held by all producing members, decide whether the complainant member is justified in its complaint and shall, if it so decides, permit the complainant member to withdraw from this Agreement.

Article 49

Disputes

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

2. Where a dispute has been referred to the Council in accordance with this Article, a majority of members or any members holding not less than one-third of the votes in the Council may require the Council, after full discussion, to seek the opinion of the advisory panel referred to in paragraph 3 of this Article on the issues in dispute before giving its decision.

3. (a) Unless the Council by a unanimous decision of votes cast agrees otherwise, the 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 producing members;

(ii) two such persons nominated by the consuming members; and

(iii) a chairman selected unanimously by the four persons nominated above or, if they fail to agree, by the executive chairman.

(b) Persons appointed to the advisory panel shall act in their personal capacity and without instructions from any Government.

(c) The expenses of the advisory panel shall be paid by the Council.

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

CHAPTER XVIII — FINAL PROVISIONS

Article 50

Depositary

The Secretary-General of the United Nations is hereby designated as the depositary of this Agreement.

Article 51

Signature

This Agreement shall be open for signature at United Nations Headquarters in New York from 3 August 1981 to 30 April 1982 inclusive by parties to the Fifth Agreement and by other States which are members of UNCTAD.

Article 52

Ratification, acceptance or approval

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

Article 53

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 under the provisions of Article 54, but which has not yet been able to deposit its instrument, may at any time notify the depositary that it will, within the limitations of its constitutional and/or legislative procedures, apply this Agreement provisionally either when it enters into force in accordance with Article 55 or, if it is already in force, at a specified date.

2. Any Government referred to in paragraph 1 of this Article which notifies the depositary that, as a consequence of applying this Agreement within the limitations of its constitutional and/or legislative procedures, it will not be able to make its contributions to the buffer stock account, shall not exercise its voting rights on matters relating to the provisions of Chapters X to XV inclusive of this Agreement. Such a Government shall, however, meet all its financial obligations pertaining to the administrative account. The provisional membership of a Government which notifies in the manner referred to in this paragraph shall not exceed 12 months from the provisional entry into force of this Agreement, unless the Council decides otherwise.

Article 54

Accession

1. This Agreement shall be open for accession by the Governments of all States upon conditions to be determined by the Council. Accession shall be effected by the deposit of an instrument of accession with the depositary. Instruments of accession shall state that the Government accepts all the conditions determined by the Council.

2. Any Government which intends to accede to this Agreement shall so inform the Council or, pending the entry into force of this Agreement, the Council of the Fifth Agreement.

3. The conditions laid down by the Council shall be equitable, in respect of voting rights and finan-

cial obligations, as between the Governments intending to accede to and other Governments already participating in this Agreement.

4. When a producing country accedes to this Agreement and becomes a producing member, the Council:

(a) shall, with the consent of that member, fix the tonnage and proportion to be shown for that member in Annexes D and E to this Agreement, where appropriate; and

(b) shall also fix the circumstances for the purpose of export control to be shown against the name of that member in Annex C to this Agreement.

The tonnage, proportion and circumstances so fixed shall have effect as though they were included in such Annexes.

5. The Council of the Fifth Agreement may, pending the entry into force of this Agreement, determine the conditions referred to in paragraph 1 of this Article, subject to confirmation by the Council at its first session.

Article 55

Entry into force

1. This Agreement shall enter into force definitively on 1 July 1982 or on any date thereafter, if by that date Governments of producing countries accounting for at least 80 % of the total production percentage as set out in Annex A to this Agreement and Governments of consuming countries accounting for at least 80 % of the total consumption percentage as set out in Annex B to this Agreement have deposited instruments of ratification, acceptance, approval or accession.

2. If, on 1 July 1982, this Agreement has not entered into force in accordance with paragraph 1 of this Article, it shall enter into force provisionally if by that date Governments of producing countries accounting for at least 65 % of the total production percentage as set out in Annex A and Governments of consuming countries accounting for at least 65 % of the total consumption percentage as set out in Annex B have deposited instruments of ratification, acceptance, approval or accession, or have notified the depositary under Article 53 that they will apply this Agreement provisionally.

3. If, on 1 June 1982, the required percentages for entry into force of this Agreement in accordance with paragraph 1 or 2 of this Article are not met, the Secretary-General of the United Nations shall invite those Governments which have deposited instruments of ratification, acceptance, approval or accession, or have notified the depositary that they will apply this Agreement provisionally, to meet to decide whether this Agreement shall enter into force definitively or provisionally among themselves, in whole or in part, on such date as they may determine. The Secretary-General of the United Nations shall also invite other Governments which have signed this Agreement or have participated in the Fifth International Tin Agreement to attend this meeting as observers.

4. If, 18 months after the expiry of the Fifth Agreement, as extended, this Agreement has entered into force provisionally, but has not entered into force definitively in accordance with paragraph 1 of this Article, those Governments which have deposited instruments of ratification, acceptance, approval or accession may decide, by mutual consent, that notwithstanding the provisions of paragraph 1 of this Article this Agreement shall enter into force difinitively among themselves. If those Governments do not decide to put this Agreement into force definitively among themselves. If those Governments force provisionally.

5. For any Government that deposits an instrument of ratification, acceptance, approval or accession after the entry into force of this Agreement, it shall enter into force for that Government on the date of such deposit.

Article 56

Membership by intergovernmental organizations

1. Any reference in this Agreement to a 'Government' or 'Governments' shall be construed as including a reference to the European Economic Community and 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, ratification, acceptance or approval, or to notification of provisional application, or to accession shall, in the case of such intergovernmental organizations be construed as including a reference to signature, ratification, acceptance or approval, or to notification of provisional application, or to accession by such intergovernmental organizations.

2. In the case of voting on matters within their competence, such organizations shall cast the number of votes equal to the total number of votes attributable, in accordance with Article 14, to their mem-

ber States, which in this case shall not cast their votes individually.

Article 57

Amendment

1. The Council may, by a two-thirds majority of the total votes held by all producing members and a two-thirds majority of the total votes held by all consuming members, recommend to members amendments to this Agreement. The Council shall, in its recommendation, fix the time limit within which each member shall notify the depositary whether or not it ratifies, accepts or approves the amendment.

2. The Council may extend the time fixed by it under paragraph 1 of this Article for notification of ratification, acceptance or approval. The Council shall notify the depositary of any such extension.

3. If, within the time fixed under paragraph 1 of this Article or extended under paragraph 2 of this Article, an amendment is ratified, accepted or approved by all members, it shall take effect immediately on the receipt by the depositary of the last ratification, acceptance or approval.

4. If, within the time fixed under paragraph 1 of this Article or extended under paragraph 2 of this Article, an amendment is not ratified, accepted or approved by members holding at least 80 % of the total votes of producing members and at least 80 % of the total votes of consuming members, it shall not take effect.

5. If, within the time fixed under paragraph 1 of this Article or extended under paragraph 2 of this Article, an amendment is ratified, accepted or approved by members holding at least 80 % of the total votes of producing members and at least 80 % of the total votes of consuming members:

(a) the amendment shall, for the members by which ratification, acceptance or approval has been signified, take effect three months after the receipt by the depositary of the last ratification, acceptance or approval necessary to comprise at least 80 % of the total votes of producing members and at least 80 % of the total votes of consuming members; and

(b) any member which does not ratify, accept or approve an amendment by the date of its coming into effect shall as of that date cease to participate in the Agreement, unless any such member satisfies the Council at its first session following the effective date of the amendment that its ratification, acceptance or approval could not be secured in time by reason of constitutional difficulties, and the Council decides to extend for such member the period fixed for ratification, acceptance or approval until these difficulties have been overcome.

6. If a member considers that its interests will be adversely affected by an amendment it may, before the date of its coming into effect, give notice to the depositary of withdrawal from this Agreement. Withdrawal shall become effective on the effective date of the amendment. The Council may, at any time, on such terms and conditions as it considers equitable, permit such member to withdraw its notice of withdrawal.

7. Any amendment to this Article shall take effect only if it is ratified, accepted or approved by all members.

8. The provisions of this Article shall not affect any power under this Agreement to revise any Annex to this Agreement or the operation of any other Article of this Agreement which provides for a specific procedure relating to the modification of this Agreement.

Article 58

Withdrawal

A Member which withdraws from this Agreement during its currency, except:

(a) in accordance with the provisions of paragraph 6 of Article 48 or paragraph 6 of Article 57; or

(b) upon at least 12 months' notice being given to the depositary not earlier than one year after the entry into force of this Agreement,

shall not be entitled to any share of the proceeds of the liquidation of the buffer stock under the terms of Article 26, nor shall it be entitled to a share of the other assets of the Council under the terms of Article 60 on the termination of this Agreement.

Article 59

Duration, extension and termination

1. The duration of this Agreement shall, except as otherwise provided in this Article, be five years from the date of its entry into force.

2. The Council may, by a two-thirds majority of the total votes held by all producing members and a two-thirds majority of the total votes held by all consuming members, decide to extend the duration of this Agreement by a period or periods not exceeding two years in all.

3. The Council, in a recommendation to the members not later than four years after the entry into force of this Agreement, shall inform them whether it is necessary and appropriate that this Agreement should be renewed and, if so, in what form. It shall at the same time consider what the relationship between the supply of and demand for tin is likely to be at the expiry of this Agreement.

4. (a) A member may at any time give notice in writing to the executive chairman that it intends to propose at the next session of the Council the termination of this Agreement.

(b) If the Council, by a two-thirds majority of the total votes held by all producing and consuming members, adopts the proposal to terminate, it shall recommend to the members that this Agreement shall terminate.

(c) If members holding two-thirds of the total votes of all producing members and two-thirds of the total votes of all consuming members notify the Council that they accept that recommendation, this Agreement shall terminate on a date decided by the Council, such date being not later than six months after the receipt by the Council of the last of the notifications from those members.

5. The Council shall notify the depositary of any decision taken under paragraph 2 or 4 (c) of this Article.

Article 60

Procedure on termination

1. The Council shall remain in being for as long as may be necessary for the carrying out of paragraph 2 of this Article, for the supervision of the liquidation of the buffer stock and any stocks held in accordance with Article 39 and for the supervision of the due performance of conditions imposed under this Agreement by the Council or under the Fifth Agreement; the Council shall have such of the powers and functions conferred on it by this Agreement as may be necessary for the purpose.

2. On termination of this Agreement:

(a) the buffer stock shall be liquidated in accordance with the provisions of Article 26;

(b) the Council shall assess the obligations into which it has entered in respect of its staff and shall, if necessary, take steps to ensure that, by means of a supplementary estimate to the administrative account raised in accordance with Article 20, sufficient funds are made available to meet such obligations;

(c) after all liabilities incurred by the Council, other than those relating to the buffer stock account, have been met, the remaining assets shall be disposed of in the manner laid down in this Article;

(d) if the Council is continued, it shall retain its archives, statistical material and all other documents;

(e) if the Council is not continued but a body is created to succeed the Council, the Council shall transfer its archives, statistical material and all other documents to such successor body and may, by a two-thirds distributed majority, either transfer all or any of its remaining assets to such successor body, or otherwise dispose of them as the Council may direct;

(f) if the Council is not continued and no successor body is created, the Council shall transfer its archives, statistical material and any other documents to the Secretary-General of the United Nations or to any international organization nominated by him or, failing such nomination, as the Council may determine, and the remaining non-monetary assets of the Council shall be sold or otherwise realized in such a manner as the Council may direct; and

(g) the proceeds of realization of non-monetary assets and any remaining monetary assets shall then be distributed in such a manner that each member shall receive a share proportionate to the total of the contributions which it has made to the administrative account established under Article 20.

Article 61

Reservations

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

In witness whereof the undersigned, being duly authorized thereto, have affixed their signatures under this Agreement on the dates indicated.

Done at Geneva on the twenty-sixth day of June, one thousand nine hundred and eighty-one, the texts of this Agreement in the Arabic, Chinese, English, French, Russian and Spanish languages being equally authentic.

ANNEX A

Percentages of producing countries (1)

Country	Percentage
Australia	5·95
Bolivia	15·61
Brazil	1·23
Indonesia	18·62
Malaysia	35·15
Nigeria	1·43
Rwanda	0·92
Thailand	19·28
Zaire	1·81
Total	100·00

(1) Based on production of tin-in-concentrates for the year 1980 (net exports of tin-in-concentrates and tin metal for Brazil).

Note: The list of countries and percentages in this Annex was established by the United Nations Tin Conference, 1980, at which the Sixth International Tin Agreement was drawn up.

ANNEX B

Percentages of individual consuming countries and groups of countries (1)

Country/group of countries	Percentage
Austria	0·27
Bulgaria	0·55
Canada	2·69
Costa Rica	0·01
Cuba	0·03
Czechoslovakia	1·80
Egypt	0·22
European Economic Community	(27·15)
Belgium/Luxembourg	1·54
Denmark	0·10
France	5·54
Federal Republic of Germany	7·75
Greece	0·23
Ireland	0·05
Italy	3·42
Netherlands	2·71
United Kingdom	5·81
Finland	0·11
Hungary	0·72
India	1·37
Iraq	0·07
Jamaica	0·01
Japan	17·20
Jordan	0·02
Malta	0·00
Mexico	0·94
New Zealand	0·14
Norway	0·26
Peru	0·06
Philippines	0·54
Poland	2·21
Republic of Korea	1·06
Romania	1·81
Saudi Arabia	0·03
Senegal	0·00
Spain	2·40
Sweden	0·24
Switzerland	0·45
Syrian Arab Republic	0·03
Tunisia	0·06
Turkey	0·39
Union of Soviet Socialist Republics	9·09
United States of America	26·91
Venezuela	0·34
Yugoslavia	0·82
Total	100·00

(1) Based on consumption of primary tin metal for the years 1978 to 1980 (net imports of tin-in-concentrates and tin metal for the USSR).

Note: The list of countries, groups of countries and percentages in this Annex was established by the United Nations Tin Conference, 1980, at which the Sixth International Tin Agreement was drawn up.

ANNEX C

PART ONE

Circumstances in which tin shall be deemed to have been exported for the purpose of export control

Australia

Tin shall be deemed to be exported on the date of the restricted goods export permit issued under the Customs (Prohibited Exports) Regulations, provided that tin dispatched from a smelting company in Australia and not subject to the Customs (Prohibited Exports) Regulations shall be deemed to have been exported when the Department of Trade and Resources has officially certified that the tin has been dispatched from that smelting company.

Bolivia

Tin shall be deemed to have been exported when it has passed the control of the customs authorities of Bolivia for payment of export duty. Where tin concentrates are smelted outside the national territory, under toll service contracts, tin shall be deemed to have been exported from Bolivia when the Ministry of Mining and Metallurgy has issued an export permit covering the tin metal obtained.

Indonesia

Tin shall be deemed to have been exported from Indonesia when the tin has been cleared through customs and/or when tin concentrates have been delivered to and weighed by the smelter under customs supervision and the customs officials have issued a customs certificate for such tin. Such tin shall not include tin subsequently imported into Indonesia for domestic consumption.

Malaysia

Tin shall be deemed to have been exported from Malaysia at the time at which the Royal Customs and Excise Department of Malaysia has weighed the concentrates or, where the concentrates have been smelted before the payment of export duty, has weighed the metal for the payment of such export duty.

Nigeria

Tin shall be deemed to have been exported when the concentrates have been delivered to the smelter, weighed and passed for payment of royalty, provided that tin not delivered to the smelter shall be deemed to have been exported when a waybill has been delivered by the Nigerian Railway Corporation acknowledging the delivery for export of concentrates to that corporation.

Thailand

Tin shall be deemed to have been exported from Thailand when the Department of Mineral Resources has officially certified that the concentrates have been delivered to and weighed by a smelting company in Thailand, provided that tin for export not delivered to a smelting company shall be deemed to have been exported from Thailand when the Department of Mineral Resources has issued an export permit in respect of such tin.

Zaire

Tin shall be deemed to have been exported when a through bill of lading has been delivered by a carrier affiliated to the Comité intérieur des Transporteurs de la République du Zaïre acknowledging the delivery of the tin to that carrier.

If, for any reason, no such document has been delivered for a particular consignment, the tonnage of tin in that consignment shall be deemed to have been exported for the purposes of this Agreement when export documents have been delivered by the customs administration of the Republic of Zaire.

General proviso: Any tin transported from a producing member during a control period shall be deemed to have been exported and treated as part of the permissible export tonnage of that member for that control period, except:

(a) as stated in this Annex in respect of Australia; or

(b) as may be determined by the Council in accordance with subparagraph (b) of Article 35 unless the formalities set out in this Annex opposite the name of that producing member have been completed in respect of that tin before the beginning of the control period.

PART TWO

Imports by producing members

For the purpose of determining net exports of tin under Article 35, imports deductible from exports during a control period shall be the amount imported by the producing member concerned during the quarter immediately preceding the declaration of the control period in question, provided that tin imported for smelting and exported shall not be taken into account.

ANNEX D

Permitted tonnage of stocks for the purposes of Article 39 (1)

Country	Tonnes
Australia	
Bolivia	
Brazil	
Indonesia	
Malaysia	
Nigeria	
Rwanda	
Thailand	
Zaire	

(1) The figures to be included in this Annex shall be determined by the Council at its first session.

ANNEX E

Additional stocks won unavoidably

(tonnes)

Country	Other mineral	Tin content of concentrates permitted to be stocked additionally for each tonne of other mineral mined
Australia	Tantalo-columbite	1·5
Nigeria	Columbite	1·5
Thailand	Wolframite-scheelite	1·5
Zaire	Tantalo-columbite	1·5

ANNEX F

Rules for the redetermination of the percentages of the producing members

Rule 1

(a) The first redetermination of the percentages of the producing members shall be made at the first session of the Council under this Agreement. Notwithstanding the provisions of rule 2, this redetermination shall be made on the basis of the last four quarters immediately preceding the introduction of any control period for which figures of the production of tin by each of the producing members are available. New percentages for the producing members shall be determined in direct proportion to their production of tin during those four quarters.

(b) Subsequent redetermination of the percentages shall be made at yearly intervals following the first redetermination, provided that no period after the quarters referred to in this rule shall have been declared to be a control period.

(c) In such subsequent redetermination made under this rule, the new percentages shall be calculated as follows:

(i) the percentages in the second redetermination shall be in direct proportion to the production of tin by each of the producing members in the latest 24 consecutive calendar months for which figures are available; and

(ii) the percentages in the third redetermination, and all later redeterminations, shall be in direct proportion to the production of tin by each of the producing members in the latest 36 consecutive calendar months for which figures are available.

Rule 2

(a) Should any period be declared to be a control period, no redetermination of the percentages shall be made until four consecutive quarters have not been declared to be control periods. The next redetermination shall then be made as soon as figures for the production of tin by each of the producing members in such four consecutive quarters are available, and redeterminations shall be made at yearly intervals thereafter for as long as no period is declared to be a control period.

(b) In any redetermination made under this rule the new percentages shall be calculated as follows:

(i) the percentages in the first redetermination following a control period shall be in direct proportion to the sum of the production of tin by each of the producing members in the latest 12 consecutive calendar months for which figures are available and in the four quarters immediately preceding that control period;

(ii) the percentages in the second redetermination, provided that no further control period shall have been declared, shall be in direct proportion to the production of tin by each of the producing members in the latest 24 consecutive calendar months for which figures are available; and

(iii) the percentages in each subsequent redetermination, provided that no further control period shall have been declared, shall be in direct proportion to the production of tin by each of the producing members in the latest 36 consecutive calendar months for which figures are available.

Rule 3

For the purposes of these rules, redetermination shall be deemed to have been made at yearly intervals if they are made in the same quarter of the calendar year as were the preceding redeterminations.

Rule 4

For the purposes of these rules, all producing members shall make available to the Council their latest 12 months' production figures within three months after the date of the latest calendar month. If a member has failed to make such figures available, the production of that member for a period of 12 months shall be calculated by multiplying by 12 the average monthly rate of production figures available for such period.

Rule 5

Figures of the production of tin in the territory of any producing member for any period earlier than 42 months before the date of any redetermination shall not be employed in that redetermination, nor shall account be taken of figures of the production of tin in control periods.

Rule 6

The Council may reduce the percentage of any producing member which has failed to export the whole of its permissible export tonnage as determined under paragraph 1 of Article 34 or of any greater amount accepted by it under paragraph 2 of that Article. In considering its decision, the Council shall regard as mitigating circumstances that the producing member concerned surrendered under paragraph 2 of Article 34 a part of its permissible export tonnage in time for effective steps to be taken by the other producing members to make good the deficit or that the producing member concerned which has failed to export the amount determined under paragraph 5 of Article 34 has exported the whole of its permissible export tonnage as determined under paragraph 1 or 2 of Article 34.

Rule 7

If a reduction in the percentage of any producing member is made in accordance with rule 6, the percentage so made available shall be distributed among the other producing members in proportion to their percentages current at the date of the decision to make the reduction.

Rule 8

Notwithstanding the foregoing rules, the percentage of a producing member shall not, during any period of 12 months, be reduced by more than one-tenth of its percentage at the commencement of that period.

Rule 9

(a) In any action which it may propose to take in accordance with these rules, the Council shall give due consideration to any circumstances stated by any producing member as being exceptional and may, by a two-thirds distributed majority, waive or modify the full application of these rules.

(b) For the purposes of this rule and of paragraph 1 of Article 34, the following circumstances *inter alia* may be regarded as exceptional: a national disaster, a major strike which has paralysed the tin mining industry for a substantial period, a major breakdown of power supplies or of the main line of transport to the coast or to the point of export as defined in Annex C to this Agreement.

Rule 10

For the purposes of these rules, the calculation for producing members which are substantial consumers of tin derived from their domestic mine production shall be based on their exports of tin and not on mine production of tin.

Rule 11

In this Annex the expression 'the production of tin' shall be deemed to refer exclusively to mine production, and smelter production shall accordingly be ignored.

ANNEX G

Cost of the buffer stock as estimated by the Chairman of the United Nations Tin Conference, 1980

The cost of acquiring and operating the buffer stock established under Article 21 of this Agreement is estimated to be 35 Malaysian ringgit per kilogram.

Information on the entry into force of the Sixth International Tin Agreement

Following the Decision taken at the United Nations Conference which ended in Geneva on 23 June 1982, the Sixth International Tin Agreement entered into force on a provisional basis as from 1 July 1982, in accordance with Article 55 (3) of the Agreement.

For its part, the Community signed the Agreement and deposited the notification of its provisional application on 27 April 1982 (1).

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(1) Council Decision of 31 March 1982 (see page 1 of this Official Journal).