II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 16 January 1987

concerning the provisional application of the 1986 International Cocoa Agreement

(87/166/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic Community, and in particular Articles 113 and 116 thereof,

Whereas the 1980 International Cocoa Agreement expired on 30 September 1986 and measures have been taken to ensure that the buffer stock and its resources are maintained until 31 January 1987;

Whereas, pursuant to the Council Decision of 30 September 1986, the 1986 International Cocoa Agreement was signed by the Community and its Member States on 30 September 1986;

Whereas it is desirable to ensure that the 1986 Agreement enters into force on a provisional basis not later than 1 February 1987; whereas, to this end, it is necessary for the Community and its Member States, in accordance with their requisite internal procedures and once these have been completed, to notify the Secretary-General of the United Nations Organization of their intention to apply the new Agreement on a provisional basis,

HAS DECIDED AS FOLLOWS:

Article 1

Once they have completed the requisite internal procedures, the Community and its Member States shall notify the Secretary-General of the United Nations Organization of their intention to apply the 1986 International Cocoa Agreement on a provisional basis, in accordance with Article 70 thereof.

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council is hereby authorized to designate the person empowered to deposit the notification of provisional application on behalf of the Community.

Done at Brussels, 16 January 1987.

For the Council

The President

G. VERHOFSTADT

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INTERNATIONAL COCOA AGREEMENT 1986

CHAPTER I

OBJECTIVES

Article 1

Objectives

The objectives of the International Cocoa Agreement 1986 (hereinafter referred to as this Agreement), taking into account relevant provisions of resolutions 93 (IV) and 124 (V) on the Integrated Programme for Commodities adopted by the United Nations Conference on Trade and Development, are:

(a) to promote the development and strengthening of international cooperation in all sectors of the world cocoa economy:

(b) to contribute towards stabilization of the world cocoa market in the interest of all members, by seeking, in particular:

(i) to prevent excessive fluctuations in the price of cocoa which adversely affect the prospects for accelerated economic growth and social development in producing member countries and the long-term interest of both producers and consumers;

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

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

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

(c) to facilitate the expansion of international trade in cocoa;

(d) to provide an appropriate forum for the discussion of all matters relating to the world cocoa economy.

CHAPTER II

DEFINITIONS

Article 2

Definitions

For the purposes of this Agreement:

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

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

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

(4) *Contracting party* means a government, or an intergovernmental organization as provided for in Article 4, which has consented to be bound by this Agreement provisionally or definitively;

(5) *Council* means the International Cocoa Council referred to in Article 6;

(6) *Daily price* means the price as defined in Article 26 (2);

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

(8) *Exporting country* or *exporting member* means a country or member respectively whose exports of cocoa, expressed in terms of beans, exceed its imports. However, a country whose imports of cocoa expressed in terms of beans exceed the exports but whose production exceeds its imports may, if it so chooses, be an exporting member;

(9) *Export of cocoa* means any cocoa which leaves the customs territory of any country; and *import of cocoa* means any cocoa which enters the customs territory of any country; provided that, for the purposes of these definitions, customs territory shall, in the case of a member which comprises more than one customs territory, be deemed to refer to the combined customs territories of that member;

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

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

(12) *Indicator price* means the price as defined in Article 26 (3);

(13) *Member* means a contracting party as defined above;

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

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

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

(17) *Special drawing right (SDR)* means the special drawing right of the International Monetary Fund;

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

(19) *Tonne* means the metric ton of 1 000 kilograms or 2 204,6 pounds, and pound means 453,597 grams.

CHAPTER III

MEMBERSHIP

Article 3

Membership in the Organization

1. Each contracting party shall be a member of the Organization.

2. There shall be two categories of members of the Organization, namely:

(a) exporting members; and

(b) importing members.

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

Article 4

Membership by intergovernmental organizations

1. Any reference in this Agreement to 'a government' or 'governments' shall be construed as including the European Economic Community and 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 intergovernmental organizations shall vote with a number of votes equal to the total number of votes attributable to their member States in accordance with Article 10. In such cases, the member States of such intergovernmental organizations shall not exercise their individual voting rights.

3. Such organizations may participate in the Executive Committee on matters within their competence.

CHAPTER IV

ORGANIZATION AND ADMINISTRATION

Article 5

Establishment, headquarters and structure of the International Cocoa Organization

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

2. The Organization shall function through:

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

(b) the Executive Director, Buffer Stock Manager and other staff.

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

Article 6

Composition of the International Cocoa Council

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

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

Article 7

Powers and functions of the Council

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

2. The Council shall not have power, and shall not be taken to have been authorized by the members, to incur any obligation outside the scope of this Agreement: in particular it shall not have the capacity to borrow money, without however limiting the application of Article 33, nor shall it enter into any trading contract for cocoa except as provided for specifically in this Agreement. In exercising its capacity to contract, the Council shall incorporate in its contracts the terms of this provision and Article 22 (5) in such a way as to bring them to the notice of the other parties entering into contracts with the Council, but any failure to incorporate such terms shall not invalidate such a contract or render it *ultra vires* the Council.

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

4. The Council shall keep such records as are required for the performance of its functions under this Agreement, and such other records as it considers appropriate.

Article 8

Chairman and vice-chairmen of the Council

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

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

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

4. Neither the chairman nor any other officer presiding at meetings of the Council shall vote. His alternate may exercise the voting rights of the member which he represents.

Article 9

Sessions of the Council

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

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

(a) any five members;

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

(c) the Executive Committee; or

(d) the Executive Director, for the purposes of Articles 27, 31, 39 and 40.

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

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

Article 10

Votes

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

2. For each cocoa year, the votes of exporting members shall be distributed as follows: each exporting member shall have five basic votes. The remaining votes shall be divided among all the exporting members in proportion to the average volume of their respective exports of cocoa in the preceding three cocoa years for which data have been

published by the Organization in its latest issue of the *Quarterly Bulletin of Cocoa Statistics*. For this purpose, exports shall be calculated as net exports of cocoa beans plus net exports of cocoa products, converted to beans equivalent using the conversion factors as specified in Article 28.

3. For each cocoa year, the votes of importing members shall be distributed as follows: 100 shall be divided equally among all importing members to the nearest whole vote for each member; the remaining votes shall be distributed among the importing members on the basis of the percentage which the average of each importing member's annual imports in the preceding three cocoa years for which final figures are available in the Organization represents in the total of the averages for all the importing members. For this purpose, imports shall be calculated as net imports of cocoa beans plus gross imports of cocoa products, converted to beans equivalent using the conversion factors as specified in Article 28.

4. No member shall have more than 400 votes. Any votes above this figure arising from the calculations in paragraphs 2 and 3 of this Article shall be redistributed among the other members on the basis of those paragraphs.

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

6. There shall be no fractional votes.

Article 11

Voting procedure of the Council

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

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

3. A member authorized by another member to cast the votes held by the authorizing member under Article 10 shall cast such votes in accordance with the instructions of the authorizing member.

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

Article 12

Decisions of the Council

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

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

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

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

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

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

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

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

Article 13

Cooperation with other organizations

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

Nations and intergovernmental organizations as may be appropriate.

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

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

Article 14

Admission of observers

1. The Council may invite any non-member State to attend any of its meetings as an observer.

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

Article 15

Composition of the Executive Committee

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

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

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

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

Article 16

Election of the Executive Committee

1. The exporting and importing members of the Executive Committee shall be elected in the Council by the exporting and importing members respectively. The election within each category shall be held in accordance with paragraphs 2 and 3 of this Article.

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

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

Article 17

Competence of the Executive Committee

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

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

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

(a) redistribution of votes under Article 10;

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

(c) revision of prices unter article 27;

(d) revision of Annex C under Article 29 (3);

(e) action relating to supplementary measures under Article 39;

(f) relief from obligations under Article 59;

(g) decision of disputes under Article 62;

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

(i) establishment of conditions for accession under Article 68;

(j) exclusion of a member under Article 73;

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

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

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

Article 18

Voting procedure and decisions of the Executive Committee

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

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

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

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

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

Article 19

Quorum for the Council and the Executive Committee

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

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

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

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

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

Article 20

The staff of the Organization

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

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

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

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

Manager shall keep the Executive Director informed of the general operations of the buffer stock, so that the Executive Director may ascertain its effectiveness in meeting the objectives of this Agreement.

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

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

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

8. In the performance of their duties, the Executive Director, the Manager and the other members of the staff shall not seek or receive instructions from any member or from any other authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization. Each member undertakes to respect the exclusively international character of the responsibilities of the Executive Director, the Manager and the staff and not to seek to influence them in the discharge of their responsibilites.

9. No information concerning the operation or administration of this Agreement shall be revealed by the Executive Director, the Manager or the other members of the staff of the Organization, except as may be authorized by the Council or as is necessary for the proper discharge of their duties under this Agreement.

CHAPTER V

PRIVILEGES AND IMMUNITIES

Article 21

Privileges and immunities

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

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

3. If the headquarters of the Organization is moved to another country, the new host Government shall, as soon as possible, conclude with the Organization a Headquarters Agreement to be approved by the Council.

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

(a) by agreement between the host Government and the Organization;

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

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

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

CHAPTER VI

FINANCE

Article 22

Finance and liabilities of members

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

2. The expenses necessary for the administration and operation of this Agreement, excluding those attributable to the operation and maintenance of the buffer stock instituted under Article 30, shall be brought into the administrative account and shall be met by annual contributions from members assessed in accordance with Article 23. If, however, a member requests special services, the Council may decide to accede to the request and subsequently may require that member to pay for them.

3. Any expenditure which is attributable to the operation and maintenance of the buffer stock under Article 34 shall be brought into the buffer stock account. The liability of the buffer stock account for any expenditure other than that specified in Article 34 shall be decided by the Council.

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

5. A member's liability to the Council and to other members is limited to the extent of its obligations regarding contributions to the administrative budget and to the financing of the buffer stock as specifically provided in this Agreement. Third parties dealing with the Council shall be deemed to have notice of the provisions of this Agreement regarding the powers of the Council and the obligations of the members, in particular, Article 7 (2) and the first sentence of this paragraph.

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

Article 23

Approval of the administrative budget and assessment of contributions

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

2. The contribution of each member to the administrative budget for each financial year shall be in the proportion which the number of its votes at the time the administrative budget for that financial year is approved bears to the total votes of all the members. For the purpose of assessing contributions, the votes of each member shall be calculated without regard to the suspension of any member's voting rights and any redistribution of votes resulting therefrom.

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

4. If this Agreement enters into force before the beginning of the first full financial year, the Council shall, at its first session, approve an administrative budget covering the period up to the commencement of the first full financial year.

Article 24

Payment of contributions to the administrative budget

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

2. Contributions to the administrative budget approved under Article 23 (4) shall be payable within three months of the date of assessment.

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

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

Article 25

Audit and publication of accounts

1. As soon as possible, but not later than six months after the close of each financial year, the statement of the Organization's accounts for that financial year and the balance sheet at the close of that financial year under each of the accounts referred to in Article 22 (1) shall be audited. The audit shall be carried out by an independent auditor of recognized standing in cooperation with two qualified auditors from member governments, one from exporting members and one from importing members, to be elected by the Council for each financial year. The auditors from member governments shall not be paid by the Organization for their professional services. However, travel and subsistence costs may be reimbursed by the Organization under terms and conditions to be determined by the Council.

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

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

CHAPTER VII

PRICES, BUFFER STOCK AND SUPPLEMENTARY MEASURES

Article 26

Daily price and indicator price

1. For the purposes of this Agreement, the price of cocoa beans shall be determined by reference to a daily price and an indicator price, both expressed in special drawing rights (SDR) per tonne.

2. The daily price shall, subject to paragraph 4 of this Article, be the average taken daily of the quotations for cocoa beans of the nearest three active future trading months on the London Cocoa Terminal Market and on the New York Coffee, Sugar and Cocoa Exchange at the time of the London close. The London prices shall converted into US $ per tonne by using the current six months forward rate of exchange in London at closing time. The US $-denominated average of the London and New York prices shall be converted into its SDR equivalent at the appropriate daily official US $/SDR exchange rate established by the International Monetary Fund. The Council shall decide the method of calculation to be used when the quotations on only one of these two cocoa markets are available or when the London Foreign Exchange Market is closed. The time for shift to the next three-month period shall be the 15th of the month immediately preceding the nearest active maturing month.

3. The indicator price shall be the average of the daily prices over a period of 10 consecutive market days. Any reference in this Agreement to the indicator price being at, below or above any figure means that the average of the daily prices of the previous 10 consecutive market days was at, below or above that figure.

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

Article 27

Prices

A. *Price structure*

1. There shall be established, for the operation of this Agreement, the following prices:

(a) an upper intervention price of 2 270 SDR per tonne;

(b) a may-sell price of 2 215 SDR per tonne;

(c) a median price of 1 935 SDR per tonne;

(d) a may-buy price of 1 655 SDR per tonne;

(e) a lower intervention price of 1 600 SDR per tonne.

B. *Annual review and fall back formula*

2. Each cocoa year, the Council, as close to the end of the cocoa year as possible, shall review the prices established in paragraph 1 of this Article. In conducting this review, the Council shall take into consideration, as appropriate, the trend of cocoa prices, consumption, production and stocks, the influence on cocoa prices of changes in the world economic or monetary situation, the financial position fo the buffer stock, the volume of net buffer stock operations and relevant provisions of UNCTAD resolution 93 (IV) concerning the Integrated Programme for Commodities, as well as any other factors which might affect the achievement of the objectives of this Agreement. The Executive Director shall supply data to assist the Council in its consideration of the foregoing elements.

3. The Council may, by special vote, revise the prices established in paragraph 1 of this Article.

4. If, after 10 calendar days from the commencement of the session, the Council is unable to agree on the need for and/or the extent of the revision of the prices and if, at the time of the review, the average of indicator prices over the last two months has been above the upper intervention price or below the lower intervention price, while:

(a) the average of indicator prices of the preceding 12 months has been above the upper intervention price, or below the lower intervention price; and

(b) the buffer stock transactions and/or the supplementary measures referred to in Articles 39 and 40, as appropriate, have not been suspended during the preceding 12 months, except if such a suspension has taken place in application of paragraph 7 or paragraph 8 of this Article,

the prices established in paragraph 1 of this Article shall be revised upwards or downwards, as appropriate, in order to bring the average of indicator prices over the preceding 12 months at a distance of 55 SDR per tonne inside the revised upper intervention price/lower intervention price range, unless this would imply a revision of more than 115 SDR per tonne, in which case the revision shall be 115 SDR per tonne. If such a revision is to enter into force, it shall do so immediately.

5. In case the average of indicator prices over the two-month period referred to in paragraph 4 of this Article has been below the upper intervention price or above the lower intervention price, the prices established in paragraph 1 of this Article shall not be revised.

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

C. *Special review and revision of prices*

7. Each time net buffer stock purchases of 75 000 tonnes have taken place within any period not exceeding six consecutive months since the date of entry into force of this Agreement or, if prices have been revised, the date of the last revision, buffer stock purchase shall be suspended and the Council shall meet in a special session within 20 working days. Unless the Council, by special vote, decides otherwise, or if after five working days a decision has not been taken and the indicator price is below the lower intervention price, the prices established in paragraph 1 of this Article shall be reduced by 115 SDR per tonne and buffer stock purchases may be resumed.

8. Each time net buffer stock sales of 75 000 tonnes have taken place within any period not exceeding six consecutive months since the date of entry into force of this Agreement or, if prices have been revised, the date of the last revision, buffer stock sales shall be suspended and the Council shall meet in a special session within 20 working days. Unless the Council, by special vote, decides otherwise, or if after five working days a decision has not been taken and the indicator price is above the upper intervention price, the prices established in paragraph 1 of this Article shall be raised by 115 SDR per tonne and buffer stock sales may be resumed.

9. If a revision or revisions are decided according to the provision of paragraph 7 or paragraph 8 of this Article, the revision referred to in paragraph 4 of this Article shall not be applicable, but a special session of the Council shall be convened to meet 12 months after the date of the latest revision and shall review the prices established in paragraph 1 of this Article. In conducting such a review, paragraphs 2, 3, 4 and 5 of this Article shall be applicable:

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

Article 28

Conversion factors

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

2. The Council may, by special vote, revise the conversion factors in paragraph 1 of this Article.

Article 29

Fine or flavour cocoa

1. Notwithstanding Article 32, the provisions of this Agreement concerning levy payments for financing the buffer stock shall not apply to fine or flavour cocoa from any exporting member listed in paragraph 1 of Annex C whose production is exclusively of fine or flavour cocoa.

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

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

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

5. Each member undertakes to require the presentation of an authorized Council control document before permitting the export of fine or flavour cocoa from its territory. Each member undertakes to require the presentation of an authorized Council control document before permitting the import of fine or flavour cocoa into its territory. The Council may, by special vote, suspend all or part of the provisions of this paragraph.

Article 30

Establishment, capacity and location of the buffer stock

1. As a means of achieving the objectives of this Agreement, an international buffer stock is hereby established. The total capacity of the buffer stock shall be 250 000 tonnes, including stocks carried over from the International Cocoa Agreement, 1980, which are deemed to be 100 000 tonnes for the purposes of Article 27. If, under the provisions of Article 75, the Council decides to extend this Agreement for a period of more than one year, the Council may, by special vote, increase the capacity of the buffer stock by not more than 100 000 tonnes of cocoa beans equivalent.

2. The Buffer Stock Manager shall purchase and hold cocoa beans but, under conditions to be determined by the Council, may also purchase and hold up to 10 000 tonnes of cocoa paste/liquor. If problems of trading or storage of this cocoa paste/liquor should arise in this experiment, the

provisions of this paragraph shall be suspended by the Council for further examination at its next regular session.

3. The Manager shall, in accordance with the buffer stock rules established by the Council, be responsible for the operation of the buffer stock and for buying cocoa, selling and maintaining in good condition stocks of cocoa and, without incurring market risks, replacing lots of cocoa in accordance with the relevant provisions of this Agreement.

4. The Manager shall not operate on terminal markets.

5. Cocoa held in the buffer stock shall be stored in such locations in member countries as will facilitate immediate ex store delivery to buyers in member countries, but mainly in importing member countries, engaged in the trade in or processing of cocoa.

Article 31

Financing of the buffer stock

1. In order to finance the operations of the buffer stock, the buffer stock account shall receive regular income in the form of a levy imposed on the exports and imports of cocoa in accordance with the provisions of Article 32.

2. If the financial position of the buffer stock is, or appears likely to be, insufficient to finance its operations, the Buffer Stock Manager shall so inform the Executive Director. The Executive Director may, after taking into account the circumstances relating to the institution of supplementary measures provided for in Article 39, call a special session of the Council to meet within 20 working days unless the Council is otherwise scheduled to meet within 30 calendar days. The Council may, by special vote, make any arrangements, other than borrowing, that it considers appropriate in order to supplement the buffer stock resources, except that there shall be no obligatory government contributions or guarantees other than those that might arise out of association with the Common Fund for Commodities.

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

4. The Manager shall keep the Executive Director and the Council informed of the financial position of the buffer stock.

Article 32

Levy for financing the buffer stock

1. The levy imposed on cocoa either on first export by a member or on first import by a member shall be US $ 45 per tonne of cocoa beans and proportionately on cocoa products in accordance with the conversion factors set out in Article 28 or as subsequently fixed by the Council by special vote. In any case, the levy shall be charged only once. For this purpose, imports of cocoa by a member from a non-member country shall be deemed to have originated from that non-member, unless satisfactory evidence is given that such cocoa originated from a member.

2. The Council shall review annually the buffer stock levy and, in the light of the financial resources and obligations of the Organization in relation to the buffer stock, may, by special vote, determine a different rate of levy or decide to suspend the levy.

3. Certificates of levy payment shall be issued in accordance with rules established by the Council. Such rules shall take into account the interests of the cocoa trade and shall cover, *inter alia*, the possible use of agents and the payment of the levy within a given time limit.

4. Levy payments under this Article shall be made in freely convertible currencies and shall be exempt from foreign exchange restrictions.

5. Nothing contained in this Article shall affect the rights of buyers and sellers to regulate the terms of payment for supplies of cocoa by agreement between them.

Article 33

Relationship with the Common Fund for Commodities

When the Common Fund for Commodities becomes operational, the Council shall have the authority to negotiate the modalities and, upon decision taken by special vote, implement the required measures for association with the Fund according to the principles set out in the Agreement establishing the Common Fund for Commodities, with a view to making full use of the financial possibilities offered by the Fund.

Article 34

Costs to be charged to the buffer stock account

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

(a) the remuneration of the Buffer Stock Manager and members of the staff who operate and maintain the buffer stock, and the cost to the Organization of administering and controlling the collection of levy payments;

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

shall be met out of the regular source of income provided for in Article 31 or the proceeds of the resale of cocoa.

2. Costs related to the withholding scheme provided for in Article 40 shall be charged to the buffer stock account.

3. The Council may, by special vote, decide to charge to the buffer stock account costs related to supplementary measures other than the withholding scheme, which may be instituted under Article 39.

Article 35

Investment of surplus buffer stock funds

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

2. The rules shall take into account, *inter alia*, the liquidity necessary for the full operation of the buffer stock and the desirability of maintaining the real value of the funds.

Article 36

Buffer stock purchases

1. When the indicator price is above the may-buy price, the Buffer Stock manager shall purchase cocoa only in so far as it is necessary to rotate cocoa already held in the buffer stock in order to preserve quality, unless the Council decides otherwise by special vote. The rotation programme shall be submitted by the Manager for approval by the Council.

2. When the indicator price is at or below the may-buy price but above the lower intervention price, the Manager may purchase cocoa in defence of the lower intervention price, unless purchases have been suspended in accordance with the provisions of Article 27 (7).

3. When the indicator price is at or below the lower intervention price the Manager shall purchase such quantities of cocoa as are necessary so that the indicator price rises above the lower intervention price, unless purchases have been suspended in accordance with the provisions of Article 27 (7).

4. The Manager may purchase in origin and second-hand markets. The Manager shall give first refusal to sellers in exporting member countries, in accordance with rules to be established by the Council with a view to ensuring effective first refusal.

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

6. The Manager shall purchase cocoa at prevailing market prices in accordance with rules to be established by the Council. The rules shall take account of the practice of the trade.

7. The Manager shall maintain appropriate records to enable him to fulfil his functions under this Agreement.

Article 37

Buffer stock sales

1. When the indicator price is below the may-sell price, the Buffer Stock Manager shall sell cocoa only in so far as it is necessary to rotate cocoa already held in the buffer stock in order to preserve quality, unless the Council decides otherwise by special vote. The rotation programme shall be submitted by the Manager for approval by the Council.

2. When the indicator price is at or above the may-sell price but below the upper intervention price, the Manager may sell cocoa in defence of the upper intervention price, unless sales have been suspended in accordance with the provisions of Article 27 (8).

3. When the indicator price is at or above the upper intervention price, the Manager shall, subject to the provisions of Article 41 (4), sell such quantities of cocoa as are necessary so that the indicator price falls below the upper intervention price, unless sales have been suspended in accordance with the provisions of Article 27 (8).

4. The Manager shall sell cocoa at prevailing market prices in accordance with rules to be established by the Council. The rules shall take account of the practice of the trade.

5. In making sales, the Manager shall sell through normal trade channels to firms and organizations in member countries, but mainly in importing member countries, engaged in the trade in or processing of cocoa.

Article 38

Liquidation of the buffer stock

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

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

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

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

(i) the costs of liquidation;

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

(c) Any monies remaining after payments have been made under subparagraph (b) above shall be divided into shares attributable to the 1972 and 1975 Agreements, to the 1980 Agreement and to this Agreement *pro rata* to the contributions or levy payments collected under the Agreement concerned:

(i) the funds collectively attributable to the 1972 and 1975 Agreements shall be paid to the exporting members concerned *pro rata* to the contributions collected on their exports;

(ii) the funds attributable to the 1980 Agreement and to this Agreement shall be divided into funds collected on exports and funds collected on imports. The funds collected on exports shall be distributed among the exporting member countries concerned *pro rata* to the contributions or levy payments collected on their exports. The funds collected on imports shall be distributed among the importing member countries concerned according to their contribution-paid or levy-paid imports. The distribution of the so-calculated collective share of the Member States of the European Community shall be decided upon by them according to criteria to be defined by these countries.

3. (a) Cocoa remaining in the buffer stock at the time of liquidation shall be sold in accordance with rules to be established by the Council before the termination of this Agreement. The rules must ensure that the liquidation takes place in an orderly manner over a sufficient period of time. The rules shall provide for adequate and regular supervision during the liquidation period of the buffer stock sales by the Council or any *ad hoc* group established by the Council for this purpose.

(b) If, at the termination of this Agreement, the Council has not been able to reach a decision on the rules referred to in subparagraph (a) above and/or the extent of the period of liquidation, the buffer stock cocoa shall be sold at the best possible price in the light of the current market conditions, taking into account the normal practice of the cocoa trade, without disturbing the normal flow of the cocoa market but nevertheless aiming at a liquidation in a period not exceeding three years, unless more than 150 000 tonnes are to be liquidated, in which case the period shall be extended to four-and-a-half years, unless during the liquidation period the Council decides otherwise.

Article 39

Institution of supplementary measures

1. When the indicator price is at or below the lower intervention price and has been so for five consecutive market days, and:

(a) 80 % of the maximum capacity of the buffer stock has been filled; or

(b) the net financial resources of the buffer stock are only sufficient to purchase 30 000 tonnes of cocoa.

the Council shall meet in a special session within 20 working days.

2. The Council may, by special vote, decide on such supplementary measures as it may deem necessary in order to further the price stabilization objectives of this Agreement.

3. If the Council decides on a measure or measures other than the withholding scheme under Article 40, the Council shall at the same session decide whether or not the withholding scheme shall enter into force in the event that such other measure or measures decided upon should prove inadequate to defend the lower intervention price. If the Council decides that the withholding scheme shall enter into force, it shall also determine the conditions under which the scheme shall enter into force.

4. If, five market days after the commencement of the special session, the Council has not taken a decision under paragraph 2 of this Article and the indicator price has been at or below the lower intervention price throughout the preceding 15 market days, the withholding scheme provided for under Article 40 shall be applicable.

5. The withholding scheme shall enter into force if at that time or subsequently the indicator price has been at or below the lower intervention price throughout the preceding period of 15 consecutive market days, so long as the buffer stock is not at that time buying on the market. The buffer stock purchases shall be suspended only when the maximum capacity of the buffer stock has been filled or the net financial resources of the buffer stock have been exhausted.

6. If the conditions in paragraph 5 above have not been met by the time of the next regular session of the Council, the decision to apply the withholding scheme shall be reviewed. Unless the Council decides otherwise, the withholding scheme shall continue to be applicable.

Article 40

Withholding scheme

1. The total volume of cocoa withheld at any one time under the withholding scheme shall not exceed 120 000 tonnes.

2. When the conditions provided for in Article 39 have been met, exporting members listed in Annex A shall undertake to withhold collectively from the market a first tranche of 30 000 tonnes of cocoa beans, unless the Council decides otherwise by special vote.

3. Unless the Council decides otherwise by special vote and subject to paragraphs 1 and 4 of this Article, further successive tranches of 30 000 tonnes of cocoa beans at a time shall be withheld by the exporting member countries concerned whenever the indicator price is at or below the lower intervention price and has been so for a period of 20 consecutive market days.

4. Unless the Council decides otherwise by special vote and after the withholding of every other tranche has been triggered, and provided the conditions of Article 39 (1) are met, the Council shall meet in special session within 20 working days. If no decision is taken, further tranches shall be withheld successively as described in paragraph 2 of this Article.

5. Each tranche of cocoa to be withheld shall be distributed among the exporting members concerned *pro rata* to the average of their annual exports in the latest three cocoa years for which figures have been published by the Organization in the *Quarterly Bulletin of Cocoa Statistics*.

6. The Council may at any time review the distribution among exporting members and, at the request of the exporting members concerned, revise the distribution among them.

7. The cocoa withheld under this scheme shall be deposited in buffer stock approved warehouses as defined in the buffer stock rules, within a period which shall be stipulated by the Council in the rules governing the withholding scheme and which shall not exceed six calendar months.

8. The quality of cocoa withheld under this scheme, as well as its storage and rotation, shall conform to the quality requirements under the buffer stock rules.

9. The withheld cocoa shall remain the property of the exporting members concerned.

10. The Buffer Stock Manager shall be responsible for the surveillance of the withholding, storage and rotation of cocoa under the scheme. The cocoa shall be under the control of the Manager.

11. The administrative costs of surveillance of the withholdings and control of rotation and storage shall be charged to the buffer stock account.

12. The cost of transport, storage and rotation for withheld cocoa stored in buffer stock approved warehouses will be charged to the buffer stock account under the following conditions:

(a) The cost of freight and insurance shall be advanced from the buffer stock account and shall be reimbursed by the producing member country concerned when its withheld cocoa is released according to the provisions of Article 41:

(b) A contribution to the storage and rotation costs, for the period between the moment the withheld cocoa is stored and the moment it is released, shall be made by the buffer stock account. This payment per tonne shall not exceed the average cost of storage and rotation of cocoa currently held by the buffer stock and its amount shall be fixed annually by the Council at its second regular session.

13. Whilst the withholding scheme is in force, importing members shall endeavour to limit their imports of bulk cocoa from non-members to the average annual quantity imported from non-members during the three years preceding the entry into force of the withholding scheme.

Article 41

Release of cocoa withheld

1. If, at any time after the withholding scheme has entered into force, the indicator price is at or above the median price, for 10 consecutive market days, 15 000 tonnes of cocoa withheld shall be released to the exporting members concerned and their obligation to withhold this cocoa shall cease.

2. If, after a release, the indicator price is at or above the median price for 10 consecutive market days, a further release of the same tonnage shall take place. Such releases shall continue until:

(a) the indicator price has fallen below the median price; or

(b) all withheld cocoa has been released.

3. If the indicator price is at or above the may-sell price, the tonnage to be released under paragraph 2 of this Article shall be doubled.

4. All withheld cocoa shall be released before normal sales of buffer stock cocoa are made.

5. The Council may, by special vote, change the tonnages and the frequency of releases provided for in this Article.

Article 42

Compliance with the withholding scheme

1. Members shall adopt all necessary measures required to ensure full compliance with obligations undertaken by them under this Agreement in respect of the withholding scheme. The Council may, if necessary, call upon members to adopt additional measures for the fulfilment of their obligations.

2. Exporting members listed in Annex A undertake to regulate their sales in such a manner as to make for orderly marketing and to be in a position to comply at all times with the withholding scheme if and when it comes into effect. To this end the Council shall, before the beginning of each cocoa year, assess and indicate the maximum tonnage that, within the limits referred to in Article 40 (1), may be required to be withheld during the following year on the basis of the foreseeable statistical balance of supply and demand, taking into account the remaining capacity of the buffer stock and its available resources. On the basis of this maximum tonnage, the Council shall establish indicative withholding tonnages for each exporting member concerned. The Council shall establish rules for the calculation of the indicative withholding tonnages and for the modalities of their application in order to assist the exporting members concerned to fulfil their obligations to withhold cocoa.

3. The Council shall, by special vote, as soon as possible and in any case before the end of the first year after the entry into force of this Agreement, establish rules for the operation, compliance and control in order to ensure the effectiveness of the withholding scheme in meeting the objectives of this Agreement, while not interfering in the execution of *bona fide* contracts concluded before the entry into force of the withholding scheme.

Article 43

Reintroduction of normal buffer stock purchases

1. If, at any time the withholding scheme is in force, the buffer stock finances improve to an extent which will enable the Buffer Stock Manager to purchase at least 30 000 tonnes of cocoa, no further withholdings shall be made. The Manager shall resume normal buffer stock purchases until either the buffer stock capacity is full or the financial resources of the buffer stock have been exhausted.

2. Exporting members concerned shall still be committed to complying with all their obligations entered into under previous withholding tranches.

3. Unless the Council decides otherwise, the withholding scheme shall be automatically reactivated when the indicator price has been at or below the lower intervention price over a period of five consecutive market days, if:

(a) the maximum capacity of the buffer stock has been filled; or

(b) the financial resources of the buffer stock have been exhausted, and provided that the total tonnage permissible for withholdings has not been reached.

Article 44

Review

1. While this Agreement is in force, the Council may at any time review, and by special vote revise, any provision relating to the withholding scheme, except that referred to in Article 40 (1).

2. In the event that the indicator price continues to fall after the total volume of the withholding as provided for in Article 40 (1) has been exhausted, the Council shall meet in special session to review the situation and consider any other measures.

Article 45

Consultation and cooperation within the cocoa economy

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

2. In fulfilling their obligations under this Agreement, members shall conduct their activities in a manner consonant with the established channels of trade and shall take due account of the legitimate interests of all sectors of the cocoa economy.

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

CHAPTER VIII

REPORTING OF EXPORTS AND IMPORTS, AND CONTROL MEASURES

Article 46

Reporting of exports and imports

1. The Executive Director shall, in accordance with rules established by the Council, maintain a record of member's exports and imports of cocoa.

2. For this purpose, each member shall report to the Executive Director the quantities of its exports of cocoa by country of destination and the quantities of its imports of cocoa by country of origin, at such intervals as the Council may determine, together with such other data as the Council may prescribe.

3. The Executive Director shall maintain a record of cocoa withheld by and released to each exporting member under the provision of Articles 40 and 41 respectively.

4. Each exporting member concerned shall report to the Executive Director monthly, or at such other intervals as the Council may determine, the total quantity of cocoa withheld, together with such other data as the Council may prescribe.

5. The Council shall establish such rules as it deems necessary to deal with non-compliance with the provisions of this Article.

Article 47

Control measures

1. Each member exporting cocoa shall require the presentation of an authorized Council control document and, if applicable, a valid certificate of levy payment, before permitting the shipment of cocoa from its customs territory. Each member importing cocoa shall require the presentation of an authorized Council control document and, if applicable, a valid certificate of levy payment, before permitting the import of any cocoa into its customs territory whether from a member or a non-member.

2. Certificates of levy payment shall not be required for exports by exporting members for humanitarian or other non-commercial purposes in so far as the Council is satisfied that the cocoa has been exported for those purposes. The Council shall arrange to issue appropriate control documents to cover such shipments.

3. The Council shall, by special vote, establish such rules as it considers necessary in respect of certificates of levy payment and other authorized Council control documents.

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

5. The Council may, by special vote, suspend all or part of the provisions of this Article.

CHAPTER IX

SUPPLY AND DEMAND

Article 48

Cooperation among members

1. Members recognize the importance of ensuring the greatest possible growth of the cocoa economy and therefore of coordinating their efforts to encourage the dynamic expansion of production and consumption so as to secure the best equilibrium between supply and demand. They shall cooperate fully with the Council in the attainment of this objective.

2. The Council shall identify the obstacles to the harmonious development and the dynamic expansion of the cocoa economy and shall seek mutually acceptable practical measures designed to overcome these obstacles. Members shall endeavour to apply the measures elaborated and recommended by the Council.

3. The Organization shall collect and keep up to date the available information needed to establish, in the most reliable way, the world's current and potential consumption and production capacity. Members shall cooperate fully with the Organization in the preparation of these studies.

Article 49

Production and stocks

1. Each exporting member may develop a programme to adjust its production, in order that the objective set forth in Article 48 may be attained. Each exporting member concerned shall be responsible for the policies and procedures it applies to attain this objective, and shall endeavour to inform the Council of such measures on as regular a basis as possible.

2. On the basis of a detailed report presented by the Executive Director at least once a year, the Council shall review the general situation regarding cocoa production, evaluating particularly the development of global supply in the light of the provisions of this Article. The Council may make recommendations to members based on this evaluation. The Council may establish a committee to assist it in respect of this Article.

3. The Council shall review annually the level of stocks held throughout the world and make any necessary recommendations based on this review. To this end members shall provide such information as the Council may require for this purpose.

Article 50

Assurance of supplies and access to markets

1. Members shall conduct their trade policies having regard to the objectives of this Agreement, so that those objectives may be attained. In particular, they recognize that regular supplies of cocoa and regular access to their markets for cocoa are essential for both importing and exporting members.

2. Exporting members shall endeavour, within the limits of the constraints of their development, to pursue sales and export policies, in accordance with the provisions of this Agreement, which will not artificially restrict offer for sale of available cocoa and which will ensure the regular supply of cocoa to importers in importing member countries.

3. Importing members shall make every effort, within the limits of their international committments, to pursue policies, in accordance with the provisions of this Agreement, which will not artificially restrict demand for cocoa and which will ensure to exporters the regular access to their markets for cocoa.

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

5. The Council may, in order to further the purposes of this Article, make any recommendations to members and shall examine periodically the results achieved.

Article 51

Consumption and promotion

1. All Members shall endeavour to promote the expansion of cocoa consumption in accordance with their own means and methods.

2. All members shall endeavour to inform the Council on as regular a basis as possible of pertinent domestic regulations and information concerning cocoa consumption.

3. On the basis of a detailed report presented by the Executive Director, the Council shall review the general situation regarding cocoa consumption, evaluating particularly the development of global demand in the light of the provisions of this Article. The Council may make recommendations to members based on this evaluation.

4. The Council may establish a committee whose aim shall be to stimulate the expansion of consumption of cocoa in both exporting and importing member countries. Membership of the committee shall be limited to members contributing to the promotion programme. Costs of such promotion programmes shall be met by contributions from exporting members. Importing members may also contribute financially. The committee shall seek the approval of a member before conducting a campaign in the territory of that member.

Article 52

Cocoa substitutes

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

2. In preparing or reviewing regulations based on the principles in paragraph 1 of this Article, members shall take fully into account the recommendations and decisions

of competent international bodies such as the Council and the Codex Committee on Cocoa Products and Chocolate.

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

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

Article 53

Scientific research and development

The Council may encourage and promote scientific research and development in areas of cocoa production, manufacture and consumption as well as the dissemination and practical application of the results obtained in this field. To this end, the Council may cooperative with international organizations and research institutions.

CHAPTER X

PROCESSED COCOA

Article 54

Processed cocoa

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

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

CHAPTER XI

RELATIONS BETWEEN MEMBERS AND NON-MEMBERS

Article 55

Commercial transactions with non-members

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

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

3. The Council shall periodically review the operation of paragraphs 1 and 2 of this Article and may require members to supply appropriate information in accordance with Article 56.

4. Any member which has reason to believe that another member has not fulfilled the obligation under paragraph 1 or paragraph 2 of this Article may so inform the Executive Director and call for consultations under Article 61, or refer the matter to the Council under Article 63.

CHAPTER XII

INFORMATION AND STUDIES

Article 56

Information

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

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

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

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

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

4. The Council shall at appropriate times, but not less than twice in any cocoa year, publish estimates of production of cocoa beans and grindings for that cocoa year.

Article 57

Studies

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

Article 58

Annual review and annual report

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

2. The Council shall publish an annual report. This report shall include a section on the annual review for which provision is made in paragraph 1 of this Article.

3. The Council may also publish such other information as it considers appropriate.

CHAPTER XIII

RELIEF FROM OBLIGATIONS, AND DIFFERENTIAL AND REMEDIAL MEASURES

Article 59

Relief from obligations in exceptional circumstances

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

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

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

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

(b) the obligation to require payment of any levy charged under Article 32.

Article 60

Differential and remedial measures

Developing importing 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) adopted by the United Nations Conference on Trade and Development.

CHAPTER XIV

CONSULTATIONS, DISPUTES AND COMPLAINTS

Article 61

Consultations

Each member shall accord full and due consideration to any representations made to it by another member concerning the interpretation or application of this Agreement and shall afford adequate opportunity for consultations. In the course of such consultations, on the request of either party and with the consent of the other, the Executive Director shall establish an appropriate conciliation procedure. The costs of such procedure shall not be chargeable to the Organization. If such procedure leads to a solution, this shall be reported to the Executive Director. If no solution is reached, the matter may, at the request of either party, be referred to the Council in accordance with Article 62.

Article 62

Disputes

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

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

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

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

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

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

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

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

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

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

Article 63

Complaints and action by the Council

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

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

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

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

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

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

CHAPTER XV

FAIR LABOUR STANDARDS

Article 64

Fair labour standards

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

CHAPTER XVI

FINAL PROVISIONS

Article 65

Signature

This Agreement shall be open for signature at United Nations Headquarters from 1 September 1986 until and including 30 September 1986 by parties to the International Cocoa Agreement 1980, and governments invited to the United Nations Cocoa Conference 1984.

Article 66

Depositary

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

Article 67

Ratification, acceptance, approval

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

2. Instruments of ratification, acceptance or approval shall be deposited with the depositary not later than 31 December 1986. The Council under the International Cocoa Agreement, 1980, or the Council under this Agreement may, however, grant extensions of time to signatory governments which are unable to deposit their instruments by that date.

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

Article 68

Accession

1. This Agreement shall be open to accession by the Government of any State upon conditions to be established by the Council.

2. The Council of the International Cocoa Agreement, 1980, may, pending the entry into force of this Agreement, establish the conditions referred to in paragraph 1 of this Article, subject to confirmation by the Council of this Agreement.

3. In establishing the conditions referred to in paragraph 1 of this Article, the Council shall determine under which of the Annexes to this Agreement the acceding State is to be deemed to be listed, if such State is not listed in any of these Annexes.

4. Accession shall be effected by deposit of an instrument of accession with the depositary.

Article 69

Notification of provisional application

1. A signatory government which intends to ratify, accept or approve this Agreement or a government for which the Council has established conditions for accession, but which has not yet been able to deposit its instrument, may at any time notify the depositary that, in accordance with its constitutional procedures, it will apply this Agreement provisionally either when it enters into force in accordance with Article 70 or, if it is already in force, at a specified date. Each government giving such notification shall at that time state whether it will be an exporting member or an importing member.

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

Article 70

Entry into force

1. This Agreement shall enter into force definitively on 1 October 1986 or any time thereafter if by such date governments representing at least five exporting countries accounting for at least 80 % of the total exports of countries listed in Annex D and governments representing importing countries having at least 65 % of total imports as set out in Annex E have deposited their instruments of ratification, acceptance, approval or accession with the depositary. It shall also enter into force definitively once it has entered into force provisionally and these percentage requirements are satisfied by the deposit of instruments of ratification, acceptance, approval or accession.

2. If this Agreement has not entered into force definitively in accordance with paragraph 1 of this Article, it shall enter into force provisionally on 1 October 1986 if by such date governments representing at least five exporting countries accounting for at least 80 % of the total exports of countries listed in Annex D and governments representing importing countries having at least 60 % of total imports as set out in Annex E have deposited their instruments of ratification, acceptance, approval or accession, or have notified the depositary that they will apply this Agreement provisionally when it enters into force. Such governments shall be provisional members.

3. If the requirements for entry into force under paragraph 1 or paragraph 2 of this Article have not been met by 1 October 1986, the Secretary-General of the United Nations shall, at the earliest time practicable, convene a meeting of those governments which have deposited instruments of ratification, acceptance, approval or accession, or have notified the depositary that they will apply this Agreement provisionally. These governments may decide whether to put this Agreement into force definitively or provisionally among themselves, in whole or in part, on such date as they may determine or to adopt any other arrangement as they may deem necessary. However,

the provisions of this Agreement relating to market intervention measures shall not be put into force unless governments representing at least five exporting countries accounting for at least 80 % of the total exports of countries listed in Annex D have deposited their instruments of ratification, acceptance, approval or accession, or have notified the depositary that they will apply this Agreement provisionally when it enters into force.

4. For a government on whose behalf an instrument of ratification, acceptance, approval or accession or a notification of provisional application is deposited after the entry into force of this Agreement in accordance with paragraph 1, paragraph 2 or paragraph 3 of this Article, the instrument or notification shall take effect on the date of such deposit and, with regard to notification of provisional application, in accordance with the provisions of Article 69 (1).

Article 71

Reservations

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

Article 72

Withdrawal

1. At any time after the entry into force of this Agreement, any member may withdraw from this Agreement by giving written notice of withdrawal to the depositary. The member shall immediately inform the Council of the action it has taken.

2. Withdrawal shall become effective 90 days after the notice is received by the depositary. If, as a consequence of withdrawal, membership in this Agreement falls below the requirements provided for in Article 70 (1) for its entry into force, the Council shall meet in special session to review the situation and to take appropriate decisions which, by special vote, may include the suspension of the provisions related to market intervention measures.

Article 73

Exclusion

If the Council finds, under Article 63 (3) that any member is in breach of its obligations under this Agreement and decides further that such breach significantly impairs the operation of this Agreement, it may, by special vote, exclude such member from the Organization. The Council shall immediately notify the depositary of any such exclusion. 90 days after the date of the Council's decision, that member shall cease to be a member of the Organization.

Article 74

Settlement of accounts with withdrawing or excluded members

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

2. Subject to paragraph 1 of this Article, a member which withdraws or is excluded from, or otherwise ceases to participate in, this Agreement shall not be entitled to any share of the proceeds of liquidation of the buffer stock under the provisions of Article 38 or the other assets of the Organization, except in the case of a member whose exports or imports from non-members are subject to the provisions of Article 32 (1). In such a case, the member shall be entitled to its share of the funds of the buffer stock when it is liquidated under the provisions of Article 38, provided that at least 12 months notice of withdrawal is given to the depositary by such member, not earlier than one year after the entry into force of this Agreement.

Article 75

Duration, extension and termination

1. This Agreement shall remain in force until the end of the third full cocoa year after its entry into force, unless extended under paragraph 3 of this Article, or terminated earlier under paragraph 4 of this Article.

2. While this Agreement is in force, the Council may, by special vote, decide to renegotiate it with a view to having the renegotiated Agreement enter into force at the end of the third cocoa year referred to in paragraph 1 of this Article, or at the end of any period of extension decided upon by the Council under paragraph 3 of this Article.

3. Before the end of the third cocoa year referred to in paragraph 1 of this Article, the Council may, by special vote, extend this Agreement in whole or in part for two cocoa years. Before the end of this two-year period the Council may, by special vote, extend this Agreement in whole or in part for one more cocoa year. The Council shall notify the depositary of any such extension or extensions.

4. The Council may at any time, by special vote, decide to terminate this Agreement. Such termination shall take effect on such date as the Council shall decide, provided

that the obligations of members under Article 31 (1) and under Article 32 shall continue until the financial liabilities relating to the buffer stock have been discharged. The Council shall notify the depositary of any such decision.

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

6. Notwithstanding the provisions of Article 72 (2), a member which does not wish to participate in this Agreement as extended under this Article shall so inform the Council. Such member shall cease to be a party to this Agreement from the beginning of the period of extension.

Article 76

Amendments

1. The Council may, by special vote, recommend an amendment of this Agreement to the Contracting Parties. The amendment shall become effective 100 days after the depositary has received notifications of acceptance from Contracting Parties representing at least 75 % of the exporting members holding at least 85 % of the votes of the exporting members, and from contracting parties representing at least 75 % of the importing members holding at least 85 % of the votes of the importing members, or on such later date as the Council may, by special vote, have determined. The Council may fix a time within which contracting parties shall notify the depositary of their acceptance of the amendment, and, if the amendment has not become effective by such time, it shall be considered withdrawn.

2. Any member on behalf of which notification of acceptance of an amendment has not been made by the date on which such amendment becomes effective shall as of that date cease to participate in this Agreement, unless the Council decides to extend the period fixed for acceptance for such member to enable it to complete its internal procedures. Such member shall not be bound by the amendment before it has notified its acceptance thereof.

3. Immediately upon adoption of a recommendation for an amendment the Council shall communicate to the depositary copies of the text of the amendment. The Council shall provide the depositary with the information necessary to determine whether the notifications of acceptance received are sufficient to make the amendment effective.

Article 77

Supplementary and transitional provisions

1. This Agreement shall be considered as a replacement of the International Cocoa Agreement 1980.

2. All acts by or on behalf of the Organization or any of its organs under the International Cocoa Agreement 1980, which are in effect on the date of entry into force of this Agreement and the terms of which do not provide for expiry on that date shall remain in effect unless changed under the provisions of this Agreement.

3. Buffer stock funds accumulated under the International Cocoa Agreement 1972, the International Cocoa Agreement 1975 and the International Cocoa Agreement 1980, shall be transferred to the buffer stock account under 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, this first day of August, one thousand nine hundred and eighty-six, the texts of this Agreement in the Arabic, English, French, Russian and Spanish languages being equally authentic. The authentic Chinese text of this Agreement shall be established by the depositary and submitted for adoption to all signatories and governments which have acceded to this Agreement.

ANNEX A

Producing countries exporting, on average, 10 000 tonnes or more of bulk cocoa annually

Brazil
Cameroon
Cote d'Ivoire
Dominican Republic
Ghana
Malaysia
Mexico
Nigeria
Togo

ANNEX B

Producing countries exporting less than 10 000 tonnes of bulk cocoa annually

Angola
Benin
Bolivia
Colombia
Congo
Costa Rica
Cuba
Equatorial Guinea
Fiji
Gabon
Guatemala
Haiti
Honduras
India
Liberia
Nicaragua
Papua New Guinea
Peru
Philippines
Sao Tome and Principe
Sierra Leone
Solomon Islands
Uganda
United Republic of Tanzania
Vanuatu
Zaire

ANNEX C

Fine or flavour cocoa producers

1. *Producing countries exporting exclusively fine or flavour cocoa*

Dominica, Commonwealth of
Ecuador
Grenada
Indonesia
Jamaica
Madagascar
Panama
Saint Lucia
Saint Vincent and the Grenadines
Samoa
Sri Lanka
Suriname
Trinidad and Tobago
Venezuela

2. *Producing countries exporting fine or flavour cocoa, but not exclusively*

Costa Rica	(25 %)
Sao Tome and Principe	(50 %)
Papua New Guinea	(75 %)

ANNEX D

Exports of cocoa calculated for the purposes of Article 70 (a)

(in thousands of tonnes)

Country (b)	1982/83	1983/84	1984/85	Average	Percentage
Brazil	272,7	302,5	336,6	303,93	22,76
Cote d'Ivoire	363,6	414,2	559,7	445,84	33,38
Dominican Republic	35,7	37,1	35,2	36,00	2,69
Ghana	177,5	153,4	181,6	170,83	12,79
Cameroon	104,2	111,1	114,7	110,00	8,24
Malaysia	65,8	97,3	92,1	85,07	6,37
Mexico	19,4	9,1	6,6	11,70	0,88
Nigeria	235,5	117,8	127,4	160,23	12,00
Togo	9,4	16,5	9,9	11,93	0,89
Total	1 283,8	1 259,0	1 463,8	1 335,53	100,0

Source: ICCO Secretariat. Based mainly on data contained in *Quarterly Bulletin of Cocoa Statistics* (London), various issues.

(a) Three-year average, 1982/83 to 1984/85, of net exports of cocoa beans plus net exports of cocoa products, converted to beans equivalent using the conversion factors as specified in Article 28.

(b) List restricted to those producing countries exporting on average 10 000 tonnes or more of bulk cocoa annually.

ANNEX E

Imports of cocoa calculated for the purposes of Article 70 (a)

(in thousands of tonnes)

Country (b)	1982/83	1983/84	1984/85	Average	Percentage
United States of America	436,9	405,7	478,3	440,3	22,50
Germany, Federal Republic of	236,8	253,1	294,5	261,5	13,36
Netherlands	201,4	216,9	234,1	217,5	11,11
Union of Soviet Socialist Republics	169,4	188,9	215,4	191,2	9,77
United Kingdom of Great Britain and Northern Ireland	118,6	130,9	148,0	132,5	6,77
France	112,4	118,8	118,1	116,4	5,95
Japan	55,5	62,3	57,6	58,5	2,99
Italy	54,8	49,1	68,7	57,5	2,94
Belgium/Luxembourg	49,1	57,2	64,1	56,8	2,90
Spain	40,4	38,9	38,6	39,3	2,01
Canada	32,5	38,0	42,2	37,6	1,92
Switzerland	32,3	32,8	32,7	32,6	1,67
Singapore	41,6	22,3	24,5	29,5	1,51
Australia	23,3	23,6	25,5	24,1	1,23
German Democratic Republic	19,9	22,6	27,9	23,5	1,20
Poland	18,4	16,5	24,1	19,7	1,01
Austria	18,9	18,8	19,6	19,1	0,98
Czechoslovakia	17,1	18,3	18,7	18,0	0,92
Sweden	15,0	15,7	17,2	16,0	0,82
Hungary	13,2	15,4	16,1	14,9	0,76
China	14,0	13,3	15,0	14,1	0,72
Argentina	11,0	16,8	14,3	14,0	0,72
Yugoslavia	8,9	9,2	18,2	12,1	0,62
Ireland	8,0	10,3	12,5	10,3	0,53
Greece	9,3	9,1	9,3	9,2	0,47
South Africa	8,6	10,5	7,9	9,0	0,46
Norway	7,8	8,7	8,1	8,2	0,42
Finland	7,2	8,4	7,1	7,6	0,39
Bulgaria	5,7	7,0	9,0	7,2	0,37
Denmark	6,6	7,2	7,3	7,0	0,36
New Zealand	6,8	7,9	4,1	6,3	0,32
Israel	5,5	5,4	6,3	5,7	0,29
Romania	6,7	5,0	4,0	5,2	0,27
Philippines (c)	11,6	2,6	0,7	5,0	0,25
Republic of Korea	4,7	4,7	4,6	4,7	0,24
Turkey	4,1	3,6	5,9	4,5	0,23
Portugal	3,5	3,9	3,9	3,8	0,19

(in thousands of tonnes)

Country (b)	1982/83	1983/84	1984/85	Average	Percentage
Egypt	2,1	3,0	4,3	3,1	0,16
Chile	1,1	1,4	2,3	1,6	0,08
Syrian Arab Republic	1,8	0,9	1,7	1,5	0,07
Algeria	1,2	1,3	1,8	1,4	0,07
Tunisia	1,0	1,7	1,1	1,3	0,06
Iraq	1,4	1,1	0,9	1,1	0,06
Uruguay	0,8	0,9	1,0	0,9	0,05
Thailand	0,6	0,9	1,1	0,9	0,04
El Salvador	0,6	0,7	0,6	0,6	0,03
Kenya	0,3	0,5	0,9	0,6	0,03
Lebanon	0,6	0,6	0,7	0,6	0,03
Iran	0,4	0,6	0,6	0,5	0,03
Iceland	0,5	0,4	0,4	0,4	0,02
Morocco	0,4	0,4	0,3	0,4	0,02
Libyan Arab Jamahiriya	0,3	0,3	0,2	0,3	0,01
Cyprus	0,1	0,2	0,2	0,2	0,01
Hong Kong	0,2	0,2	0,3	0,2	0,01
Jordan	0,3	0,2	0,2	0,2	0,01
Malta	0,2	0,2	0,2	0,2	0,01
Zimbabwe	0,2	0,2	0,1	0,2	0,01
Kuwait	0,1	0,1	0,2	0,1	0,01
Saudi Arabia	0,1	0,1	0,2	0,1	0,01
Total (d)	1 851,8	1 894,9	2 123,8	1 956,8	100,00

Source: ICCO Secretariat. Based mainly on data contained in *Quarterly Bulletin of Cocoa Statistics* (London), various issues.

(a) Three-year average, 1982/83 to 1984/85, of net imports of cocoa beans plus gross imports of cocoa products, converted to beans equivalent using the conversion factors as specified in Article 28.

(b) List restricted to countries importing over 100 tonnes per annum.

(c) Philippines may also qualify as an exporting country.

(d) Totals may differ from the sum of the constituent items because of rounding.

Information on the entry into force of the 1986 International Cocoa Agreement

The 1986 International Cocoa Agreement entered into force on a provisional basis on 20 January 1986 further to a decision by the United Nations Conference held in London on 19 January 1987 pursuant to Article 70 (3) of the Agreement.