II

*(Acts whose publication is not obligatory)*

# COUNCIL

## COUNCIL DECISION

**of 25 March 1991**

**on acceptance of the terms of reference of the International Tin Study Group**

(91/178/EEC)

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

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

Having regard to the proposal from the Commission,

Whereas the terms of reference of the International Tin Study Group were adopted at Geneva on 7 April 1989 by the United Nations Conference on Tin;

Whereas the States and international organizations which participated in the Conference have been asked to notify the United Nations Secretary-General of their acceptance of the terms of reference in accordance with paragraph 21 (b) thereof;

Whereas the Study Group will carry out an important activity of analysis and surveillance of the market and of trade in tin;

Whereas the institutional structure of the International Tin Study Group as laid down in its terms of reference, implies joint participation by the Community and those Member States which have agreed to the terms of reference;

Whereas certain Member States have indicated their intention to participate in the Study Group;

Whereas, the Community and those Member States which have decided to participate in the proceedings of the Study Group should therefore, on the basis of a common position, lodge their instruments of acceptance at the same time,

HAS DECIDED AS FOLLOWS:

*Article 1*

The terms of reference of the International Tin Study Group are hereby accepted by the European Economic Community.

The Community and those Member States which at this stage have decided to participate in the proceedings of the Study Group shall simultaneously lodge their instruments of acceptance with the Secretary-General of the United Nations as soon as the necessary internal procedures have been completed.

The text of the terms of reference is attached hereto.

*Article 2*

The President of the Council is hereby authorized to designate the persons empowered to lodge the instrument of acceptance on behalf of the Community.

Done at Brussels, 25 March 1991.

*For the Council*

*The President*

R. STEICHEN

*ANNEX*

# TERMS OF REFERENCE OF THE INTERNATIONAL TIN STUDY GROUP

## Establishment

1. The International Tin Study Group is hereby established to administer the provisions and supervise the operation of these terms of reference.

## Objective

2. The objective of the Group shall be to ensure enhanced international cooperation on issues concerning tin, by improving the information available on the international tin economy and by providing a forum for intergovernmental consultations on tin.

## Definitions

3. (a) 'The Group' means the International Tin Study Group as constituted in these terms of reference.

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

(c) 'Members' means all States and intergovernmental organizations as provided for in paragraph 5 which have notified their acceptance pursuant to paragraph 21.

## Functions

4. The Group shall have the following functions:

(a) to establish the capacity for and to undertake the continued monitoring of the world tin economy and its trends, particularly by establishing, maintaining and continuously updating a statistical system on world production, stocks, trade and consumption of all forms of tin, as well as disseminating, as appropriate, the information thus generated;

(b) to conduct consultations and exchanges of information on developments and trends related to the production, stocks, trade and consumption of all forms of tin;

(c) to undertake studies as appropriate on a broad range of important issues concerning tin, in accordance with the decisions of the Group.

## Membership

5. Membership of the Group shall be open to all States which are interested in the production or consumption of, or international trade in, tin, and to any intergovernmental organization having responsibilities in respect of the negotiation, conclusion and application of international agreements, in particular commodity agreements.

## Powers of the Group

6. (a) The Group shall exercise such powers and take action or arrange for action to be taken as may be necessary to carry out and ensure the application of the provisions of these terms of reference.

(b) The Group shall not have the power, directly or indirectly, to enter into any contract for the purposes of trade in tin or in any other commodity or product, or any contract for futures transactions; nor shall it have the power to enter into any financial obligations for such purposes.

(c) The Group shall adopt such rules as are considered necessary to carry out its functions and which shall be subject to, and not inconsistent with, these terms of reference.

(d) The Group shall not have the power and shall not be taken to have been authorized by its members to incur any obligation outside the scope of these terms of reference or the rules of procedure.

## Headquarters

7. The headquarters of the Group shall be at a location selected by it in the territory of a Member State, unless the Group decides otherwise. The Group shall negotiate a headquarters agreement with the host government to be concluded as soon as possible after these terms of reference have entered into force.

## Decision-making

8. (a) The highest authority of the Group established under these terms of reference shall be vested in the General Session.

(b) The Group, the Standing Committee referred to in paragraph 9, and such committees and subsidiary bodies as may be established, shall take decisions by consensus and without a vote, except in the case of decisions for which a specific voting majority is specified in these terms of reference or in the rules of procedure.

(c) Each member State shall be entitled to one vote.

### Standing Committee

9. (a) The Group shall establish a Standing Committee which shall consist of those members of the Group which have indicated their desire to participate in its work.

(b) The Standing Committee shall undertake such tasks as may be assigned to it by the Group and shall report to the Group on completion, or on the progress, of its work.

### Committees and subsidiary bodies

10. The Group may establish an industry advisory committee to monitor the evolution of the tin industry. The Group may also establish other committees or subsidiary bodies, in addition to the Standing Committee, on such terms and conditions as it may determine.

### Secretariat

11. (a) The Group shall have a secretariat consisting of a Secretary-General and such staff as may be required.

(b) The Secretary-General shall be the chief administrative officer of the Group and shall be responsible to it for the administration and operation of these terms of reference in accordance with the decisions of the Group.

### Cooperation with others

12. (a) The Group may make arrangements for consultations or cooperation with the United Nations, its organs or specialized agencies, and with other intergovernmental institutions, as appropriate.

(b) The Group may also make arrangements as it considers appropriate for maintaining contact with interested non-participating Governments, with other international non-governmental organizations, or with private sector institutions, as appropriate.

(c) The Group may invite any non-member State and any appropriate intergovernmental or non-governmental organization substantially interested in tin problems to be represented at its meetings by an observer, on the understanding that such organization will extend similar rights to the Group. Unless the Group decides otherwise, such observers may attend all meetings of the Group in respect of the whole or any part of a particular meeting or series of meetings, but may not attend meetings of the Standing Committee or of any committee or sub-committee on which not all members of the Group are represented.

(d) The chairman may invite observers to participate in the Group's discussions, but they shall not have the right to vote or to submit proposals.

### Relationship with the Common Fund

13. The Group may apply to be designated as an International Commodity Body (ICB) under Article 7 (9) of the Agreement establishing the Common Fund for Commodities, for the purpose of sponsoring, on such terms and conditions as the Group may determine only by consensus, projects on tin to be financed by the Fund through its Second Account. The Group shall not, however, incur any financial obligations in respect of such projects ; nor shall it act as executing agency for any such project.

### Legal status

14. (a) The Group shall have international legal personality.

(b) The status of the Group in the territory of the host government shall be governed by a Headquarters Agreement between the host government and the Group.

(c) The Group shall have the legal capacity to exercise its functions and, in particular, but subject to paragraph 6 (b) above, the capacity to enter into contracts, to acquire and to dispose of movable property, and to institute legal proceedings.

### Budget contributions

15. (a) Each member shall contribute to an annual budget approved by the Group. The contribution of each member to the budget shall consist of an equal share of 50 % of the budget, the balance to be apportioned among member States in proportion to their shares in the total trade of member States in primary tin metal and tin-in-concentrates, consisting for producing countries of total exports less total imports and, for consuming countries, of total imports. For this purpose, countries whose production of tin-in-concentrates exceeds their reported consumption of primary tin metal shall be classified as producing countries, and countries whose reported consumption of primary tin metal exceeds their production of tin-in-concentrates shall be classified as consuming countries. The calculation shall be on the basis of the latest three calendar years for which statistics are available.

(b) The Group shall determine the contribution of each member for each financial year in a single currency to be decided by the Group and in accordance with the provisions for contributions specified in the rules of procedure. The payment of the contribution by each member shall be made in accordance with its constitutional procedures.

### Statistics and information

16. (a) The Group shall collect, collate and make available to members such statistical information on production, trade, stocks and consumption of tin as it deems appropriate for the effective operation of these terms of reference, as well as the information referred to in subparagraph (b) below.

(b) The Group shall make such arrangements as it considers appropriate by which information may be exchanged with interested non-participating Governments and with appropriate non-governmental and intergovernmental organizations in order to ensure the availability of recent and reliable data on production, consumption, stocks, international trade, internationally recognized published prices of tin, and on other factors that influence the demand for and supply of tin.

(c) The Group shall endeavour to ensure that no information published by it shall prejudice the confidentiality of the operations of governments or of persons or enterprises producing, processing, marketing or consuming tin.

### Annual assessment and reports

17. (a) The Group shall undertake an annual assessment of the world tin situation and related matters in the light of information supplied by members and supplemented by information from all other relevant sources. The annual assessment shall include a review of anticipated tin production capacity for future years and an outlook for tin production, consumption and trade for the following calendar year, for the purpose of assisting members in their individual assessments of the evolution of the international tin economy.

(b) The Group shall prepare a report incorporating the results of the annual assessment and distribute it to members. If the Group deems it appropriate, this report, as well as other reports and studies distributed to members, may be made available to other interested parties in accordance with the rules of procedure.

### Studies

18. (a) The Group shall undertake or make appropriate arrangements to undertake *ad hoc* studies related to the international tin economy, including studies on special problems or difficulties which exist or may be expected to arise.

(b) The studies may contain general recommendations or suggestions, but such recommendations or suggestions shall not derogate from the right of every member to manage all aspects of its domestic tin economy and shall be without prejudice to the competence of other international organizations in matters falling within their jurisdiction.

### Obligations of members

19. Members shall use their best endeavours to cooperate and to promote the attainment of the objective of the Group, in particular by providing the data on the tin economy referred to in paragraph 16 (a).

### Amendment

20. These terms of reference may be amended only by consensus of the Group.

### Entry into force

21. (a) These terms of reference shall enter into force when States together accounting for at least 70 % of trade in tin, as set out in the Annex to these terms of reference, have notified the Secretary-General of the United Nations (hereinafter referred to as 'the depositary') pursuant to subparagraph (b) below of their acceptance of these terms of reference.

(b) Any State or any intergovernmental organization referred to in paragraph 5 which desires to become a member of the Group shall notify the depositary that it accepts these terms of reference either provisionally, pending the conclusion of its internal procedures, or definitively. Any State or intergovernmental organization which has notified its provisional acceptance of these terms of reference shall endeavour to complete its procedures as quickly as possible and shall notify the depositary of their completion.

(c) If the requirements for entry into force of these terms of reference have not been met on 31 December 1989, the depositary shall invite those States and intergovernmental organizations that have notified their acceptance of these terms of reference pursuant to subparagraph (b) above to decide whether or not to put these terms of reference into force among themselves.

(d) When these terms of reference enter into force, the depositary shall convene an inaugural meeting of the Group as soon as possible thereafter. Members shall be notified at least one month, where possible, prior to that meeting.

### Withdrawal

22. (a) A member may withdraw from the Group at any time by giving written notice of withdrawal to the depositary and to the Secretary-General of the Group.

(b) Withdrawal shall be without prejudice to any financial obligations already incurred by the withdrawing member and shall not entitle it to any rebate of its contribution for the year in which the withdrawal occurs.

(c) Withdrawal shall become effective 30 days after the notice is received by the depositary.

(d) The Secretary-General of the Group shall promptly notify each member of any notification received under this paragraph.

### Termination

23. (a) The Group may at any time decide by a two-thirds majority vote of Member States to terminate these terms of reference. Such termination shall take effect on such date as the Group shall decide.

(b) Notwithstanding the termination of these terms of reference, the Group shall continue in being for as long as it is necessary to carry out its liquidation, including the settlement of accounts.

### Reservations

24. No reservations may be made to any of the provisions of these terms of reference.

*ANNEX*

**Trade in tin** (1)

| Country | Exports | Imports | Trade | Share (%) |
|---|---|---|---|---|
| | (1 000 tonnes) | | | |
| Argentina | 0,1 | 0,9 | 1,0 | 0,27 |
| Australia | 6,5 | 0,4 | 6,9 | 1,84 |
| Belgium-Luxembourg | 2,9 | 3,2 | 6,1 | 1,63 |
| Bolivia | 12,9 | — | 12,9 | 3,44 |
| Brazil | 20,1 | — | 20,1 | 5,36 |
| Canada | 1,7 | 3,8 | 5,5 | 1,47 |
| China | 17,2 | — | 17,2 | 4,59 |
| Denmark | 0,9 | 0,9 | 1,8 | 0,48 |
| Egypt | — | 0,3 | 0,3 | 0,08 |
| Finland | — | 0,1 | 0,1 | 0,03 |
| France | 0,2 | 7,7 | 7,9 | 2,11 |
| Federal Republic of Germany | 3,1 | 19,4 | 22,5 | 6,00 |
| Greece | — | 0,4 | 0,4 | 0,11 |
| India | — | 2,7 | 2,7 | 0,72 |
| Indonesia | 25,3 | — | 25,3 | 6,74 |
| Ireland | — | 0,1 | 0,1 | 0,03 |
| Italy | 0,1 | 6,2 | 6,3 | 1,68 |
| Japan | — | 32,1 | 32,1 | 8,56 |
| Malaysia | 49,2 | 13,1 | 62,3 | 16,61 |
| Mexico | — | 4,7 | 4,7 | 1,25 |
| Netherlands | 2,6 | 8,5 | 11,1 | 2,96 |
| Nigeria | 0,6 | — | 0,6 | 0,16 |
| Norway | — | 0,5 | 0,5 | 0,13 |
| Peru | 3,8 | 0,4 | 4,2 | 1,12 |
| Philippines | — | 0,5 | 0,5 | 0,13 |
| Poland | — | 3,1 | 3,1 | 0,83 |
| Portugal | — | 0,6 | 0,6 | 0,16 |
| Republic of Korea | — | 5,1 | 5,1 | 1,36 |
| Spain | 0,1 | 3,3 | 3,4 | 0,91 |
| Sweden | 0,1 | 0,6 | 0,7 | 0,19 |
| Thailand | 16,5 | — | 16,5 | 4,40 |
| Turkey | — | 1,1 | 1,1 | 0,29 |
| Union of Soviet Socialist Republics | — | 13,8 | 13,8 | 3,68 |
| United Kingdom of Great Britain and Northern Ireland | 16,8 | 14,1 | 30,9 | 8,24 |
| United States of America | 1,4 | 41,4 | 42,8 | 11,41 |
| Yugoslavia | — | 1,4 | 1,4 | 0,37 |
| Zaire | 2,6 | — | 2,6 | 0,69 |
| TOTAL | 184,7 | 190,4 | 375,1 | 100,00 |

(1) Annual average for the period 1985 to 1987 of imports and exports of tin-in-concentrates and primary tin metal for countries which participated in the United Nations Tin Conference, 1988.