

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

Article 26

Operation of this Agreement

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

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

Article 27

Consultation and Co-operation with the Cocoa Industry

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

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

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

Article 28

Daily Price and Indicator Price

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

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

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

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

Article 29

Prices

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

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

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

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

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

Article 30

Basic Quotas

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

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

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

Article 31

Annual Export Quotas

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

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

3. The estimate adopted under paragraph 1, together with the annual export quotas determined on that basis, shall be reviewed and, if necessary, revised by the Council by special