

members providing for the registration of all their cocoa to be exported within the limit of the export quota in effect.

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

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

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

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

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

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

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

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

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

Article 36

Redistribution of Shortfalls

1. Each exporting member shall, as soon as possible and in any case before the end of May in each quota year, notify the Council of the extent to which and the reasons why it expects either that it will not use all its quota in effect or that it will have a surplus over that quota. In the light of such notifications and explanations the Executive Director shall, unless the Council decides otherwise by special vote taking into account market conditions, redistribute shortfalls among exporting members in accordance with rules which the Council

shall establish covering the conditions, timing and mode of such redistribution. Such rules shall include provisions regulating the manner in which reductions made under paragraphs 5 and 6 of Article 35 shall be dealt with.

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

Article 37

Institution and Financing of the Buffer Stock

1. A buffer stock arrangement is hereby instituted.

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

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

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

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

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

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

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

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

Article 38

Investment of Surplus Buffer Stock Funds

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

2. These rules shall, among other things, take into account the liquidity necessary for the full operation of the buffer