

UNITED NATIONS CONFERENCE ON TRADE AND DEVELOPMENT

**INTERNATIONAL COCOA  
AGREEMENT, 2010**



**UNITED NATIONS**

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**INTERNATIONAL COCOA  
AGREEMENT, 2010**



**UNITED NATIONS**  
Geneva, 2011

NOTE

Symbols of United Nations documents are composed of capital letters combined with figures. Mention of such a symbol indicates a reference to a United Nations document.

TD/COCOA.10/5

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## INTRODUCTION

The United Nations Cocoa Conference, 2010, was held at the Palais des Nations, Geneva, on 19 April 2010 and from 21 to 25 June 2010. The Parties to the existing Agreement and all States members of UNCTAD, as well as specialized agencies of the United Nations, were invited to participate in the Conference.

The Conference had before it the draft text of a new International Cocoa Agreement, which was the outcome of the discussions held by a Working Group established by the International Cocoa Council.

The Conference was opened on 19 April 2010 by Mr. Kwabena Baah-Duodu, Officer-in-Charge of the Special Unit on Commodities, UNCTAD, and elected H.E. Ambassador Guy-Alain Emmanuel Gauze (Côte d'Ivoire) as President of the Conference and Mr. Max Schnellmann (Switzerland) as Vice-President of the Conference. It also adopted the agenda as contained in document TD/COCOA.10/1. The Conference decided to postpone the remainder of the meeting to 21–25 June 2010 because numerous government representatives from cocoa-producing and consuming countries were unable to attend due to the cancellation of flights into Geneva resulting from the volcanic eruption in Iceland. All other items under the agenda were taken up when the Conference resumed in June. Ms. Lisanne Losier was Secretary to the Conference and Mr. Carlos Moreno acted as Legal Adviser to the Conference.

At its plenary on 21 June 2010, Mr. Petko Draganov, Deputy Secretary-General of UNCTAD, and Mr. Jan Vingerhoets, Executive Secretary of ICCO, made welcoming statements and provided an historical overview and a summary of the preparation for the successor agreement on Cocoa. The Conference adopted its rules of procedure (TD/COCOA.10/2) and established a Negotiating Committee to consider the articles of the agreement in closed session. It also elected Mr. Hagen Streichert (Germany) as Chair of the Negotiating Committee and H.E. Mrs. Jean Kekedo (Papua New Guinea) as its Vice-Chair. The Conference completed its work on 25 June 2010 when, at its closing plenary, it adopted one resolution (TD/COCOA.10/4) and established the text of the International Cocoa Agreement, 2010.

On 14 December 2010, the Secretary-General of the United Nations, acting in his capacity as depositary, issued a depositary notification (C.N.810.2010.TREATIES-2) drawing the attention of all parties to an error in article 62 (3) of the authentic text of the Agreement as well as the certified true copies circulated by depositary notification C.N.497.2010.TREATIES-2 of 30 September 2010, whereby the term "fifth cocoa year" should have read "tenth cocoa year". In accordance with the established depositary practice, a period of 90 days from the date of the notification was set for any objection to be communicated to the Secretary-General. No objections were received and the proposed correction has been effected to the text of the agreement.

## **AGENDA OF THE UNITED NATIONS COCOA CONFERENCE, 2010**

1. Opening of the Conference
2. Adoption of the agenda
3. Adoption of the rules of procedure
4. Election of officers
5. Credentials of representatives:
  - (a) Appointment of a Credentials Committee
  - (b) Report of the Credentials Committee
6. Establishment of the Negotiating Committee and of other committees as required
7. Preparation of a successor agreement to the International Cocoa Agreement, 2001
8. Consideration and adoption of final resolutions
9. Other business

**RESOLUTION ADOPTED BY THE UNITED NATIONS  
COCOA CONFERENCE, 2010**

Final resolution

*The United Nations Cocoa Conference for the Negotiation of a Successor Agreement to the International Cocoa Agreement, 2001,*

*Having met* in Geneva on 19 April 2010 and from 21 to 25 June 2010,

*Expressing its gratitude* for the facilities and services provided by the Secretary-General of UNCTAD,

*Recording its appreciation* for the contribution made by the President of the Conference and by its other officers, as well as by the secretariat,

*Having established* the text of the International Cocoa Agreement, 2010 in Arabic, Chinese, English, French, Russian and Spanish,

1. *Requests* the Secretary-General of the United Nations to forward copies of the text of the Agreement to all Governments and intergovernmental organizations invited to the Conference for their consideration;

2. *Requests* the Secretary-General of the United Nations to arrange for the Agreement to be open for signature at United Nations Headquarters in New York during the period laid down in article 53 of the Agreement;

3. *Draws attention* to the procedures available to States and to intergovernmental organizations referred to in article 4 of the Agreement to become parties to the International Cocoa Agreement, 2010 and *invites* them to deposit the appropriate instruments to this end.

*4<sup>th</sup> plenary meeting  
25 June 2010*

**LIST OF STATES AND ORGANIZATIONS REPRESENTED AT THE  
CONFERENCE\***

***Member States***

Algeria	Luxembourg
Austria	Malaysia
Bahrain	Mali
Belgium	Mexico
Bolivia (Plurinational State of)	Morocco
Brazil	Nepal
Cameroon	Netherlands
China	Nicaragua
Côte d'Ivoire	Nigeria
Cuba	Papua New Guinea
Cyprus	Poland
Czech Republic	Portugal
Dominican Republic	Romania
Ecuador	Russian Federation
France	Saint Lucia
Gabon	Sierra Leone
Germany	Slovakia
Ghana	South Africa
Greece	Spain
Guinea	Sweden
Holy See	Switzerland
Hungary	Thailand
Indonesia	Togo
Iraq	Trinidad and Tobago
Ireland	Venezuela (Bolivarian Republic of)
Italy	Zambia
Jamaica	

***Observer***

Palestine

***Intergovernmental organizations***

African, Caribbean and Pacific Group of States (ACP Group)  
African Union  
Cocoa Producers' Alliance (CPA)  
European Union  
International Cocoa Organization (ICCO)  
International Jute Study Group (IJSJG)  
Organisation Internationale de la francophonie (OIF)

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\* For the list of participants, see TD/COCOA.10/INF.1.



***United Nations specialized agencies and related organizations***

International Trade Centre (ITC)  
Food and Agriculture Organization of the United Nations (FAO)  
United Nations Industrial Development Organization (UNIDO)

***Non-governmental organizations***

Ocaproce Internationale  
Oxfam International

## **International Cocoa Agreement, 2010\***

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\* The text of the Agreement as amended through depositary notification dated 14 December 2010 (ref. C.N.810.2010.TREATIES-2).

# INTERNATIONAL COCOA AGREEMENT, 2010

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## PREAMBLE

The Parties to the Agreement,

(a) *Recognizing* the contribution of the cocoa sector to poverty alleviation and the achievement of the internationally agreed development goals, including the Millennium Development Goals (MDGs);

(b) *Recognizing* the importance of cocoa and the cocoa trade for the economies of developing countries, as a source of income for their populations, and recognizing the key contribution of the cocoa trade to their export earnings and to the formulation of social and economic development programmes;

(c) *Recognizing* the importance of the cocoa sector to the livelihoods of millions of people, particularly in developing countries where small-scale farmers rely on cocoa production as a direct source of income;

(d) *Recognizing* that close international cooperation on cocoa matters and continuing dialogue between all stakeholders in the cocoa value chain may contribute to the sustainable development of the world cocoa economy;

(e) *Recognizing* the importance of strategic partnerships between exporting and importing Members to ensure the achievement of a sustainable cocoa economy;

(f) *Recognizing* the need to ensure the transparency of the international cocoa market, for the benefit of both producers and consumers;

(g) *Recognizing* the contribution of the previous International Cocoa Agreements of 1972, 1975, 1980, 1986, 1993, and 2001 to the development of the world cocoa economy;

Hereby agree the following;

## CHAPTER I OBJECTIVES

### *Article 1*

#### **Objectives**

With a view to strengthening the global cocoa sector, supporting its sustainable development and increasing the benefits to all stakeholders, the objectives of the Seventh International Cocoa Agreement are:

- (a) To promote international cooperation in the world cocoa economy;
- (b) To provide an appropriate framework for discussion on all cocoa matters among governments, and with the private sector;
- (c) To contribute to the strengthening of the national cocoa economies of Member countries, through the preparation, development and evaluation of appropriate projects to be submitted to the relevant institutions for financing and implementation and seeking finance for projects that benefit Members and the world cocoa economy;
- (d) To strive towards obtaining fair prices leading to equitable economic returns to both producers and consumers in the cocoa value chain, and to contribute to a balanced development of the world cocoa economy in the interest of all Members;
- (e) To promote a sustainable cocoa economy in economic, social and environmental terms;
- (f) To encourage research and the implementation of its findings through the promotion of training and information programmes leading to the transfer to Members of technologies suitable for cocoa;
- (g) To promote transparency in the world cocoa economy, and in particular in the cocoa trade, through the collection, analysis and dissemination of relevant statistics and the undertaking of appropriate studies, as well as to promote the elimination of trade barriers;
- (h) To promote and to encourage consumption of chocolate and cocoa-based products in order to increase demand for cocoa, inter alia through the promotion of the positive attributes of cocoa, including health benefits, in close cooperation with the private sector;
- (i) To encourage Members to promote cocoa quality and to develop appropriate food safety procedures in the cocoa sector;
- (j) To encourage Members to develop and implement strategies to enhance the capacity of local communities and small-scale farmers to benefit from cocoa production and thereby contribute to poverty alleviation;
- (k) To facilitate the availability of information on financial tools and services that can assist cocoa producers, including access to credit and approaches to managing risk.

## CHAPTER II DEFINITIONS

### *Article 2*

#### **Definitions**

For the purposes of this Agreement:

1. *Cocoa* means cocoa beans and cocoa products;
2. *Fine or flavour cocoa* is cocoa recognized for its unique flavour and colour, and produced in countries designated in annex C of this Agreement;
3. *Cocoa products* means products made exclusively from cocoa beans, such as cocoa paste/liquor, cocoa butter, unsweetened cocoa powder, cocoa cake and cocoa nibs;
4. *Chocolate and chocolate products* are products made from cocoa beans which comply with the *Codex Alimentarius* standard for chocolate and chocolate products;
5. *Stocks of cocoa beans* means all dry cocoa beans that can be identified as at the last day of the cocoa year (30 September), irrespective of location, ownership or intended use;
6. *Cocoa year* means the period of 12 months from 1 October to 30 September inclusive;
7. *Organization* means the International Cocoa Organization referred to in article 3;
8. *Council* means the International Cocoa Council referred to in article 6;
9. *Contracting Party* means a Government, the European Union or an intergovernmental organization as provided for in article 4, which has consented to be bound by this Agreement provisionally or definitively;
10. *Member* means a Contracting Party as defined above;
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. *Exporting country or exporting Member* means a country or a Member respectively whose exports of cocoa, expressed in terms of beans, exceed its imports. However, a cocoa-producing country whose imports of cocoa, expressed in bean equivalent terms, exceed its exports but whose production of cocoa beans exceeds its imports or whose production exceeds its apparent domestic cocoa consumption<sup>1</sup> may, if it so chooses, be an exporting Member;
13. *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;

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<sup>1</sup> Calculated as grindings of cocoa beans plus net imports of cocoa products and of chocolate and chocolate products in beans equivalent.



14. *A sustainable cocoa economy* implies an integrated value chain in which all stakeholders develop and promote appropriate policies to achieve levels of production, processing and consumption that are economically viable, environmentally sound and socially responsible for the benefit of present and future generations, with the aim of improving productivity and profitability in the cocoa value chain for all stakeholders concerned, in particular for the smallholder producers;

15. *Private sector* comprises all private entities which have main activities in the cocoa sector, including farmers, traders, processors, manufacturers and research institutes. In the framework of this Agreement, the private sector also comprises public enterprises, agencies and institutions which, in certain countries, fulfil roles that are performed by private entities in other countries;

16. *Indicator price* is the representative indicator of the international price of cocoa used for the purposes of this Agreement and computed in accordance with the provisions of article 33;

17. *Special Drawing Right (SDR)* means the Special Drawing Right of the International Monetary Fund;

18. *Tonne* means a mass of 1,000 kilograms or 2,204.6 pounds and pound means 453.597 grams;

19. *Simple distributed majority vote* means a majority of votes cast by exporting Members and a majority of votes cast by importing Members, counted separately;

20. *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 at least five exporting Members and a majority of importing Members are present;

21. *Entry into force* means, except when qualified, the date on which this Agreement first enters into force, whether provisionally or definitively.

### **CHAPTER III THE INTERNATIONAL COCOA ORGANIZATION (ICCO)**

#### *Article 3*

#### **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 headquarters of the Organization shall always be located in the territory of a Member.

3. The headquarters of the Organization shall be in London unless the Council decides otherwise.

4. The Organization shall function through:

(a) The International Cocoa Council, which is the highest authority of the Organization;

(b) The subsidiary bodies of the Council, comprising the Administration and Finance Committee, the Economics Committee, the Consultative Board on the World Cocoa Economy, and any other committees established by the Council; and

(c) The Secretariat.

#### *Article 4*

##### **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.
4. Two or more Contracting Parties may, by appropriate notification to the Council and to the Depositary, which will take effect on a date to be specified by the Contracting Parties concerned and on conditions agreed by the Council, declare that they are participating in the Organization as a Member group.
5. Any reference in this Agreement to “a Government” or “Governments” shall be construed as including the European Union and any intergovernmental organization having comparable responsibilities in respect of the negotiation, conclusion and implementation 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.
6. 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.

#### *Article 5*

##### **Privileges and immunities**

1. The Organization shall have legal personality. It shall in particular have the capacity to contract, acquire and dispose of movable and immovable property and to institute legal proceedings.
2. The status, privileges and immunities of the Organization, its Executive Director, its staff, experts and representatives of Members, while in the territory of the host country for the purpose of exercising their functions, shall be governed by the Headquarters’ Agreement concluded between the host country and the International Cocoa Organization.

3. The Headquarters' Agreement referred to in paragraph 2 of this article shall be independent of this Agreement. It shall, however, terminate:

(a) Pursuant to the provisions of the aforementioned Headquarters' Agreement;

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

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

4. 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 IV THE INTERNATIONAL COCOA COUNCIL**

##### *Article 6*

##### **Composition of the International Cocoa Council**

1. The International Cocoa Council shall consist of all the Members of the Organization.

2. In the meetings of the Council, Members shall be represented by duly accredited delegates.

##### *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 the 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. In exercising its capacity to contract, the Council shall incorporate in its contracts the terms of this provision and of article 23 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 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, and the financial and staff regulations of the Organization. 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.

5. The Council may set up any working group(s) as appropriate to assist it in carrying out its task.

*Article 8*

**Chairman and Vice-Chairman of the Council**

1. The Council shall elect a Chairman and a Vice-Chairman for each cocoa year, who shall not be paid by the Organization.
2. Both the Chairman and the Vice-Chairman shall be elected from among the representatives of the exporting Members or from among the representatives of the importing Members. These offices shall alternate each cocoa year between the two categories.
3. In the temporary absence of both the Chairman and the Vice-Chairman or the permanent absence of one or both 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. A member of his/her delegation may exercise the voting rights of the Member which he or she 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. The Council shall meet in special session whenever it so decides or at the request of:
  - (a) Any five Members;
  - (b) At least two Members having at least 200 votes;
  - (c) The Executive Director, for the purposes of articles 22 and 59.
3. Notice of sessions shall be given at least 30 calendar days in advance, except in case of emergency, where notice shall be at least 15 days.
4. Sessions shall normally be held at the headquarters of the Organization unless the Council decides otherwise. If, on the invitation of any Member, the Council decides to meet elsewhere than at the headquarters of the Organization, that Member shall pay the additional costs involved, as defined in the administrative rules of the Organization.

*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 34.

3. For each cocoa year, the votes of importing Members shall be distributed among all importing Members in proportion to the average volume of their respective imports 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, 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 34. No Member country shall have less than five votes. Hence voting rights of Member countries with above the minimum number of votes shall be redistributed among Members with below the minimum number of votes.

4. If, for any reason, difficulties should arise in the determination or the updating of the statistical basis for the calculation of votes in accordance with the provisions of paragraphs 2 and 3 of this article, the Council may decide on a different statistical basis for the calculation of votes.

5. No Member except those mentioned in paragraphs 4 and 5 of article 4 shall have more than 400 votes. Any votes above this figure arising from the calculations in paragraphs 2, 3 and 4 of this article shall be redistributed among the other Members on the basis of those paragraphs.

6. 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. The European Union or any intergovernmental Organization as defined in article 4 shall hold votes as a single Member according to the procedure set out in paragraphs 2 or 3 of this article.

7. 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 paragraph 5 of article 10 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.

#### *Article 12*

##### **Decisions of the Council**

1. The Council shall endeavour to take all decisions and to make all recommendations by consensus. If consensus cannot be reached, the Council

shall take decisions and make recommendations by a special vote, according to the following procedures:

(a) If the majority required by the special vote is not obtained because of the negative vote of more than three exporting or more than three importing Members, the proposal shall be considered as rejected;

(b) If the majority required by the special vote is not obtained because of the negative vote of three or less exporting or three or less importing Members, the proposal shall be put to a vote again within 48 hours; and

(c) If the majority required by the special vote is again not obtained, the proposal shall be considered as rejected.

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. Members are committed 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.

4. The Council shall seek to involve the international financial agencies and other parties with an interest in the world cocoa economy in its work on cocoa production and consumption policy.

5. The Council may seek to cooperate with other relevant experts in cocoa matters.

#### *Article 14*

##### **Invitation and 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.

3. The Council may also invite non-governmental organizations having relevant expertise in aspects of the cocoa sector, as observers.

4. For each of its sessions, the Council shall decide on the attendance of observers, including, on an ad hoc basis, non-governmental organizations having relevant expertise in aspects of the cocoa sector, in conformity with the conditions set out in the administrative rules of the Organization.

#### *Article 15*

##### **Quorum**

1. The quorum for the opening meeting of any session of the Council shall be constituted by the presence of at least five 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, on the second day, and throughout the remainder of the session, the quorum for the opening session shall be constituted by the presence of exporting and importing Members holding a simple majority of the votes in each 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 paragraph 2 of article 11 shall be considered as presence.

## **CHAPTER V THE SECRETARIAT OF THE ORGANIZATION**

#### *Article 16*

##### **The Executive Director and the staff of the Organization**

1. The Secretariat shall consist of the Executive Director and the staff.

2. The Council shall appoint the Executive Director for a period of not more than the duration of the Agreement and its extensions, if any. The rules for selection of candidates and the terms of appointment of the Executive Director shall be fixed by the Council.

3. 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.

4. The staff of the Organization shall be responsible to the Executive Director.

5. 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 insofar as is practicable from exporting and importing Members.

6. Neither the Executive Director nor the staff shall have any financial interest in the cocoa industry, the cocoa trade, cocoa transportation or cocoa publicity.

7. In the performance of their duties, the Executive Director and the staff shall neither seek nor 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 and the staff and not to seek to influence them in the discharge of their responsibilities.

8. No information concerning the operation or administration of this Agreement shall be revealed by the Executive Director or 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.

#### *Article 17*

#### **Work programme**

1. At the first session of the Council, after the entry into force of this agreement, the Executive Director shall submit a five-year strategic plan for review and approval by the Council. One year before the expiry of the five-year strategic plan, the Executive Director shall present a new draft of the five-year strategic plan to the Council.

2. At its last session of each cocoa year, and on the recommendation of the Economics Committee, the Council shall adopt a work programme for the Organization for the coming year prepared by the Executive Director. The work programme shall include projects, initiatives and activities to be undertaken by the Organization. The Executive Director shall implement the work programme.

3. During its last meeting of each cocoa year, the Economics Committee shall evaluate the implementation of the work programme for the current year on the basis of a report by the Executive Director. The Economics Committee shall report its findings to the Council.

#### *Article 18*

#### **Annual report**

The Council shall publish an annual report.

### **CHAPTER VI THE ADMINISTRATION AND FINANCE COMMITTEE**

#### *Article 19*

#### **Establishment of the Administration and Finance Committee**

1. An Administration and Finance Committee is hereby established. The Committee shall:

(a) Supervise, on the basis of a budget proposal presented by the Executive Director, the preparation of the draft administrative budget to be submitted to the Council;

(b) Carry out any other administrative and financial tasks which the Council assigns to it, including the monitoring of income and expenditure and matters related to the administration of the Organization.



2. The Administration and Finance Committee shall submit recommendations on the above matters to the Council.

3. The Council shall establish rules and regulations of the Administration and Finance Committee.

*Article 20*

**Composition of the Administration and Finance Committee**

1. The Administration and Finance Committee shall consist of six exporting Members on a rotational basis and six importing Members.

2. Each Member of the Administration and Finance Committee shall appoint one representative and if it so desires, one or more alternates. Members in each category shall be elected by the Council, on the basis of the votes held in accordance with article 10. Membership shall be for a two-year period, and shall be renewable.

3. The Chairman and Vice-Chairman shall be elected from among the representatives of the Administration and Finance Committee, for a period of two years. The posts of Chairman and Vice-Chairman shall alternate between exporting and importing Members.

*Article 21*

**Meetings of the Administration and Finance Committee**

1. The meetings of the Administration and Finance Committee shall be open to all other Members of the Organization as observers.

2. The Administration and Finance Committee shall normally meet at the headquarters of the Organization, unless it decides otherwise. If, on the invitation of any Member, the Administration and Finance Committee meets elsewhere than at the headquarters of the Organization, that Member shall pay the additional costs involved, as defined in the administrative rules of the Organization.

3. The Administration and Finance Committee shall normally meet twice a year and report on its proceedings to the Council.

**CHAPTER VII FINANCE**

*Article 22*

**Finance**

1. There shall be kept an administrative account for the administration of this Agreement. The expenses necessary for the administration of this Agreement shall be brought into the administrative account and shall be met by annual contributions from Members assessed in accordance with article 24. If, however, a Member requests special services, the Council may decide to accede to the request and shall require that Member to pay for them.

2. The Council may establish separate accounts for specific purposes that it may establish in accordance with the objectives of the present Agreement. These accounts shall be financed through voluntary contributions from Members or other bodies.

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

4. The expenses of delegations to the Council, to the Administration and Finance Committee, to the Economics Committee and to any of the Committees of the Council or of the Administration and Finance Committee and Economics Committee, shall be met by the Members concerned.

5. If the financial position of the Organization is or appears likely to be insufficient to finance the remainder of the cocoa year, the Executive Director shall call a special session of the Council within 15 days unless the Council is otherwise scheduled to meet within 30 calendar days.

#### *Article 23*

##### **Liabilities of Members**

A Member's liability to the Council and to other Members is limited to the extent of its obligations regarding contributions specifically provided for 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, paragraph 2 of article 7 and the first sentence of this article.

#### *Article 24*

##### **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 25*

##### **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 paragraph 4 of article 24 shall be payable within three months of the date of assessment.

3. If, at the end of four months after the beginning of the financial year or, in the case of a new Member, three 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, the Administration and Finance Committee and the Economics 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 decides otherwise. It shall remain liable to pay its contribution and to meet any other financial obligations under this Agreement.

5. The Council shall consider the question of membership of any Member with two years' contributions unpaid, and may decide that this Member shall cease to enjoy the rights of membership and/or cease to be assessed for budgetary purposes. It shall remain liable to meet any other of its financial obligations under this Agreement. By payment of the arrears the Member will regain the rights of membership. Any payments made by Members in arrears will be credited first to those arrears, rather than to current contributions.

#### *Article 26*

#### **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 the accounts referred to in article 22 shall be audited. The audit shall be carried out by an independent auditor of recognized standing, to be elected by the Council for each financial year.

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 VIII THE ECONOMICS COMMITTEE**

#### *Article 27*

#### **Establishment of the Economics Committee**

1. An Economics Committee is hereby established. The Economics Committee shall:

(a) Review cocoa statistics and statistical analyses of cocoa production and consumption, stocks and grindings, international trade and cocoa prices;

(b) Examine analyses of market trends and of other factors influencing such trends, with particular regard to cocoa supply and demand, including the effect of the use of cocoa butter substitutes on consumption and on the international cocoa trade;

(c) Analyse information on market access for cocoa and cocoa products in producing and consuming countries including information on tariff and non-tariff barriers as well as the activities undertaken by Members with the view to promoting the elimination of trade barriers;

(d) Examine and recommend to the Council projects for funding by the Common Fund for Commodities (CFC) or other donor agencies;

(e) Address issues regarding the economic dimension of sustainable development in the cocoa economy;

(f) Review the draft annual work programme of the Organization in cooperation with the Administration and Finance Committee as appropriate;

(g) Prepare international cocoa conferences and seminars, at the request of the Council; and

(h) Deal with any other matters as approved by the Council.

2. The Economics Committee shall submit recommendations on the above matters to the Council.

3. The Council shall establish the rules and regulations of the Economics Committee.

#### *Article 28*

##### **Composition of the Economics Committee**

1. The Economics Committee shall be open to all Members of the Organization.

2. The Chairman and the Vice-Chairman of the Economics Committee shall be elected from among the Members for a period of two years. The posts of Chairman and Vice-Chairman shall alternate between exporting and importing Members.

#### *Article 29*

##### **Meetings of the Economics Committee**

1. The Economics Committee shall normally meet at the headquarters of the Organization, unless it decides otherwise. If, on the invitation of any Member, the Economics Committee meets elsewhere than at the headquarters of the Organization, that Member shall pay the additional costs involved, as defined in the administrative rules of the Organization.

2. The Economics Committee shall normally meet twice a year coinciding with the sessions of the Council. The Economics Committee shall report on its proceedings to the Council.

## CHAPTER IX MARKET TRANSPARENCY

### *Article 30*

#### **Information and market transparency**

1. The Organization shall act as a global information centre for the efficient collection, collation, exchange and dissemination of statistical information and studies on all matters relating to cocoa and cocoa products. To this effect, the Organization shall:

(a) Maintain up-to-date statistical information on world production, grindings, consumption, exports, re-exports, imports, prices and stocks of cocoa and cocoa products;

(b) Request, as appropriate, technical information on the cultivation, marketing, transportation, processing, utilization and consumption of cocoa.

2. The Council may request Members to provide the information related to cocoa which it deems necessary for its functioning, including information on government policies, taxation, national standards, regulations and legislation relating to cocoa.

3. In order to promote market transparency, Members shall, insofar as possible, provide the Executive Director with the relevant statistics within a reasonable time and in as detailed and accurate a manner as is practicable.

4. If a Member fails to supply, or finds difficulty in supplying, within a reasonable time, statistical information required by the Council for the proper functioning of the Organization, the Council may request the Member concerned to explain the reasons for non-compliance. If it is found that assistance is needed in the matter, the Council may offer the necessary measures of support to overcome existing difficulties.

5. The Council shall publish at an appropriate date, but at least twice every cocoa year, projections on cocoa production and cocoa grindings. The Council may use relevant information from other sources in order to follow the evolution of the market as well as assess or evaluate the current and possible future cocoa production and consumption levels. However, the Council may not publish any information likely to disclose the operation of individuals or commercial entities that produce, process or distribute cocoa.

### *Article 31*

#### **Stocks**

1. In order to facilitate the assessment of world cocoa stocks with a view to ensuring greater market transparency, each Member shall provide, on a yearly basis, and not later than the end of May, the Executive Director with information on stocks of cocoa beans and cocoa products held in its country, in accordance with Article 30, paragraph 3.

2. The Executive Director shall take the necessary steps to obtain the full cooperation of the private sector in this exercise, whilst fully respecting the issues of commercial confidentiality associated with this information.

3. The Executive Director shall make an annual report to the Economics Committee on the information received on the levels of stocks of cocoa beans and cocoa products worldwide.

*Article 32*

**Cocoa substitutes**

1. Members recognize that the use of substitutes may have negative effects on the expansion of cocoa consumption and the development of a sustainable cocoa economy. In this regard, Members shall take full account of the recommendations and decisions of competent international bodies, in particular the provisions of the *Codex Alimentarius*.

2. The Executive Director shall make regular reports to the Economics Committee on the development of the situation. On the basis of these reports, the Economics Committee shall assess the situation and, if necessary, make recommendations to the Council for appropriate decisions.

*Article 33*

**Indicator price**

1. For the purposes of this Agreement and, in particular, for monitoring the evolution of the cocoa market, the Executive Director shall compute and publish the ICCO indicator price for cocoa beans. This price shall be expressed in United States dollars per tonne as well as in Euros, Pounds Sterling and Special Drawing Rights (SDRs) per tonne.

2. The ICCO indicator price shall be the average of the daily quotations for cocoa beans of the nearest three active futures trading months on the London market (NYSE Liffe) and on the New York market (ICE Futures US) at the time of the London close. The London prices shall be converted into United States dollars per tonne by using the current six months forward rate of exchange in London at closing time. The United States dollar-denominated average of the London and New York prices shall be converted into its Euro and Pound Sterling equivalents by using the spot rates of exchange in London at closing time and its SDR equivalent at the appropriate daily official United States dollar/SDR exchange rate published 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 fifteenth of the month immediately preceding the nearest active maturing month.

3. The Council may decide on any other method of computing the ICCO indicator price if it considers such other method to be more satisfactory than that prescribed in this article.

*Article 34*

**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 revise the conversion factors in paragraph 1 of this article.

*Article 35*

**Scientific research and development**

The Council shall encourage and promote scientific research and development in the areas of cocoa production, transportation, processing, marketing and consumption as well as the dissemination and practical application of the results obtained in this field. To this end, the Organization may cooperate with international organizations, research institutions and the private sector.

**CHAPTER X MARKET DEVELOPMENT**

*Article 36*

**Market analyses**

1. The Economics Committee shall analyse trends and prospects for development in cocoa-producing and -consuming sectors, as well as the movement of stocks and prices, and shall identify any market imbalances at an early stage.

2. At its first session after the start of a new cocoa year, the Economics Committee shall examine annual forecasts of world production and consumption for the next five cocoa years. The forecasts provided shall be reviewed and revised, if necessary, every year.

3. The Economics Committee shall submit detailed reports to each regular session of the Council. On the basis of these reports, the Council will examine the general situation, and in particular will review trends in world supply and demand. The Council may make recommendations to its members on the basis of this review.

4. On the basis of these forecasts, and in order to deal with the problems of market imbalances in the medium and long term, the exporting Members may undertake to coordinate their national production policies.

*Article 37*

**Consumption promotion**

1. Members undertake to encourage the consumption of chocolate and the use of cocoa products, improve the quality of products and develop markets for cocoa, including in exporting Member countries. Each Member shall be responsible for the means and methods it employs for that purpose.

2. All Members shall endeavour to remove or reduce substantially domestic obstacles to the expansion of cocoa consumption. In this regard, Members shall regularly provide the Executive Director with information on pertinent domestic regulations and measures and with other information concerning cocoa consumption, including domestic taxes and customs tariffs.

3. The Economics Committee shall establish a programme for the promotion activities of the Organization which may comprise information campaigns, research, capacity-building and studies related to the production and consumption of cocoa. The Organization shall seek the collaboration of the private sector for the implementation of those activities.

4. The promotion activities shall be included in the annual work programme of the Organization and may be financed by resources pledged by Members, non-Members, other organizations and the private sector.

*Article 38*

**Studies, surveys and reports**

1. In order to assist Members, the Council shall encourage the preparation of studies, surveys, technical reports and other documents on 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 analysis of the cocoa value chain, approaches to managing financial and other risks, sustainability aspects of the cocoa sector, opportunities for expansion of cocoa consumption for traditional and possible new uses, links between cocoa and health and the effects of the operation of this Agreement on exporters and importers of cocoa, including their terms of trade.

2. It may also promote studies likely to contribute to greater market transparency and facilitate the development of a balanced and sustainable world cocoa economy.

3. In order to carry out the provisions of paragraphs 1 and 2 of this article, the Council, upon recommendations of the Economics Committee, may adopt the list of studies, surveys and reports to be included in the annual work programme in conformity with the provisions of article 17 of this Agreement. These activities may be financed either from provisions within the administrative budget or from other sources.

**CHAPTER XI FINE OR FLAVOUR COCOA**

*Article 39*

**Fine or flavour cocoa**

1. The Council shall, at its first session following the entry into force of this Agreement, review annex C of this Agreement and, if necessary, revise it determining the proportions in which the countries listed therein produce and export exclusively or partially fine or flavour cocoa. Thereafter, the Council may at any time during the lifetime of this Agreement review annex C and, if necessary, revise it. The Council shall seek expert advice on this matter, as appropriate. In such cases, the composition of the Panel of Experts should, as far as possible, ensure a balance between experts from importing countries and experts from exporting countries. The Council shall decide on the composition of and on the procedures to be followed by the Panel of Experts.

2. The Economics Committee may make proposals for the Organization to devise and implement a system of statistics on production of and trade in fine or flavour cocoa.

3. Giving due consideration to the importance of fine or flavour cocoa, Members shall examine, and adopt as appropriate, projects relating to fine or flavour cocoa in accordance with the provisions of articles 37 and 43.



## **CHAPTER XII PROJECTS**

### *Article 40*

#### **Projects**

1. Members may submit project proposals which contribute to the achievement of the objectives of this Agreement and the priority areas for work identified in the five-year strategic plan referred to in paragraph 1 of article 17.

2. The Economics Committee shall examine project proposals and make recommendations to the Council, according to the mechanisms and procedures for submission, appraisal, approval, prioritization and funding of projects, as established by the Council. The Council may, as appropriate, establish mechanisms and procedures for the implementation and monitoring of projects, as well as the wide dissemination of their results.

3. At each meeting of the Economics Committee, the Executive Director shall report on the status of all projects approved by the Council, including those awaiting financing, under implementation or completed. A summary shall be presented to the Council pursuant to paragraph 2 of article 27.

4. As a general rule, the Organization shall act as supervisory body during project execution. The overhead costs incurred by the Organization for the preparation, management, supervision and evaluation of projects shall be included in the total costs of projects. These overhead costs shall not exceed 10 per cent of the total costs of any project.

### *Article 41*

#### **Relationship with the Common Fund for Commodities and other multilateral and bilateral donors**

1. The Organization shall take full advantage of the facilities of the Common Fund for Commodities in order to assist in the preparation and financing of projects of interest to the cocoa economy.

2. The Organization shall endeavour to cooperate with other international organizations, as well as with multilateral and bilateral donor agencies, in order to obtain financing for programmes and projects of interest to the cocoa economy as appropriate.

3. Under no circumstances shall the Organization undertake any financial obligations related to projects, either on its own behalf or in the name of Members. No Member of the Organization shall be responsible by reason of its membership of the Organization for any liability arising from borrowing or lending by any other Member or entity in connection with such projects.

## **CHAPTER XIII SUSTAINABLE DEVELOPMENT**

### *Article 42*

#### **Standard of living and working conditions**

Members shall give consideration to improving the standard of living and working conditions of populations engaged in the cocoa sector, consistent with their stage of development, bearing in mind internationally recognized principles

and applicable ILO standards. Furthermore, Members agree that labour standards shall not be used for protectionist trade purposes.

*Article 43*

**Sustainable cocoa economy**

1. Members shall make all necessary efforts to accomplish a sustainable cocoa economy, taking into account the sustainable development principles and objectives contained, inter alia, in the Rio Declaration on Environment and Development and in Agenda 21 adopted in Rio de Janeiro in 1992, the United Nations Millennium Declaration adopted in New York in 2000, the Report of the World Summit on Sustainable Development held in Johannesburg in 2002, the 2002 Monterrey Consensus on Financing for Development, and the 2001 Ministerial Declaration on the Doha Development Agenda.

2. The Organization shall, upon request, assist Members to fulfil their goals in the development of a sustainable cocoa economy in accordance with article 1, paragraph (e) and article 2, paragraph 14.

3. The Organization shall serve as a focal point for a permanent dialogue amongst stakeholders as appropriate to foster the development of a sustainable cocoa economy.

4. The Organization shall encourage cooperation between Members through activities which help to ensure a sustainable cocoa economy.

5. The Council shall adopt and periodically review programmes and projects related to a sustainable cocoa economy and in accordance with paragraph 1 of this article.

6. The Organization shall actively seek the assistance and support of multilateral and bilateral donors for the execution of programmes, projects and activities aimed at achieving a sustainable cocoa economy.

**CHAPTER XIV THE CONSULTATIVE BOARD ON THE  
WORLD COCOA ECONOMY**

*Article 44*

**Establishment of the Consultative Board on the World Cocoa Economy**

1. A Consultative Board on the World Cocoa Economy (herein after called the Board) is hereby established to encourage the active participation of experts from the private sector in the work of the Organization and to promote a continuous dialogue among experts from the public and private sectors.

2. The Board shall be an advisory body which advises the Council on issues of general and strategic interest to the cocoa sector, which include:

- (a) The long-term structural developments in supply and demand;
- (b) The ways and means of strengthening the position of cocoa farmers, with a view to improving their livelihoods;
- (c) Proposals to encourage the sustainable production, trade and use of cocoa;

- (d) The development of a sustainable cocoa economy;
  - (e) The elaboration of the modalities and frameworks for promotion of consumption; and
  - (f) Any other cocoa-related matters within the scope of the Agreement.
3. The Board shall assist the Council in gathering information on production, consumption and stocks.
4. The Board shall submit its recommendations on the above matters to the Council for consideration.
5. The Board may set up ad hoc working groups to assist in fulfilling its mandate provided that their operating costs have no budgetary implications for the Organization.
6. Upon its establishment, the Board shall draw up its own rules and recommend them for adoption by the Council.

*Article 45*

**Composition of the Consultative Board on the World Cocoa Economy**

1. The Consultative Board on the World Cocoa Economy shall be composed of experts from all sectors of the cocoa economy, such as:
- (a) Associations from the trade and industry;
  - (b) National and regional cocoa producer organizations, from both the public and private sectors;
  - (c) National cocoa exporters' organizations and farmers' associations;
  - (d) Cocoa research institutes; and
  - (e) Other private sector associations or institutions having an interest in the cocoa economy.
2. These experts shall act in their personal capacity or on behalf of their respective associations.
3. The Board shall be composed of eight experts from exporting countries and eight experts from importing countries as defined in paragraph 1 of this article. These experts shall be appointed by the Council every two cocoa years. The members of the Board may designate one or more alternates and advisers to be approved by the Council. In the light of the experience of the Board, the Council may increase the number of members of the Board.
4. The Chairman of the Board shall be chosen from among its members. The chairmanship shall alternate between exporting and importing countries every two cocoa years.

*Article 46*

**Meetings of the Consultative Board on the World Cocoa Economy**

1. The Consultative Board on the World Cocoa Economy shall normally meet at the headquarters of the Organization, unless the Council decides otherwise. If, on invitation of any Member, the Consultative Board meets elsewhere than at the headquarters of the Organization, that Member shall pay

the additional costs involved, as defined in the administrative rules of the Organization.

2. The Board shall normally meet twice a year alongside the regular sessions of the Council. The Board shall report regularly to the Council on its proceedings.

3. The meetings of the Consultative Board on the World Cocoa Economy shall be open to all Members of the Organization as observers.

4. The Board may also invite eminent experts or personalities of high standing in a specific field, from the public and private sectors, including appropriate non-governmental organizations, having relevant expertise in aspects of the cocoa sector, to participate in its work and meetings.

## **CHAPTER XV RELIEF FROM OBLIGATIONS AND DIFFERENTIAL AND REMEDIAL MEASURES**

### *Article 47*

#### **Relief from obligations in exceptional circumstances**

1. The Council may 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 the obligation under article 25 to pay contributions, or the consequences of a failure to pay them.

4. The basis for the calculation of the distribution of votes of an exporting Member for which the Council has recognized a case of force majeure, shall be the effective volume of its exports for the year in which the force majeure occurred and subsequently for the ensuing three years following the force majeure.

### *Article 48*

#### **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 the light of the provisions of resolution 93 (IV) adopted by the United Nations Conference on Trade and Development.

## CHAPTER XVI CONSULTATIONS, DISPUTES AND COMPLAINTS

### *Article 49*

#### **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 a procedure shall not be chargeable to the Organization. If such a 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 50.

### *Article 50*

#### **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 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; and
- (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 therefore shall be submitted to the Council, which, after considering all the relevant information, shall decide the dispute.

*Article 51*

**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 60:

(a) Suspend that Member's voting rights in the Council; and

(b) If it considers it 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 XVII FINAL PROVISIONS**

*Article 52*

**Depositary**

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

*Article 53*

**Signature**

This Agreement shall be open for signature at United Nations Headquarters from 1 October 2010 until and including 30 September 2012 by parties to the International Cocoa Agreement, 2001, and Governments invited to the United Nations Cocoa Conference, 2010. The Council under the International Cocoa Agreement, 2001, or the Council under this Agreement may, however, extend once the period of signature of this Agreement. The Council shall immediately notify the Depositary of such extension.

*Article 54*

**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. Instruments of ratification, acceptance or approval shall be deposited with the Depositary.

2. Each Contracting Party shall notify the Secretary-General whether it is an exporting Member or an importing Member at the time of deposit of its instrument of ratification, acceptance or approval or as soon as possible thereafter.

*Article 55*

**Accession**

1. This Agreement shall be open to accession by the Government of any State entitled to sign it.
2. 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.
3. Accession shall be effected by deposit of an instrument of accession with the Depositary.

*Article 56*

**Notification of provisional application**

1. A signatory Government which intends to ratify, accept or approve this Agreement or a Government which intends to accede to the Agreement, 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 and/or its domestic laws and regulations, it will apply this Agreement provisionally either when it enters into force in accordance with article 57 or, if it is already in force, at a specified date. Each Government giving such notification shall inform the Secretary-General whether it is an exporting Member or an importing Member at the time of giving such notification or as soon as possible thereafter.
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 57*

**Entry into force**

1. This Agreement shall enter into force definitively on 1 October 2012, or any time thereafter, if by such date Governments representing at least five exporting countries accounting for at least 80 per cent of the total exports of countries listed in annex A and Governments representing importing countries having at least 60 per cent of total imports as set out in annex B 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. This Agreement shall enter into force provisionally on 1 January 2011 if by such date Governments representing at least five exporting countries accounting for at least 80 per cent of the total exports of countries listed in annex A and Governments representing importing countries having at least 60 per cent of total imports as set out in annex B 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 September 2011, the

Secretary-General of the United Nations Conference on Trade and Development 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.

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 paragraph 1 of article 56.

#### *Article 58*

#### **Reservations**

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

#### *Article 59*

#### **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 paragraph 1 of article 57 for its entry into force, the Council shall meet in special session to review the situation and to take appropriate decisions.

#### *Article 60*

#### **Exclusion**

If the Council finds, under paragraph 3 of article 51, 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 exclude such Member from the Organization. The Council shall immediately notify the Depositary of any such exclusion. Ninety days after the date of the Council's decision, that Member shall cease to be a member of the Organization.

#### *Article 61*

#### **Settlement of accounts with withdrawing or excluded Members**

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 paragraph 2 of article 63, the Council may determine any settlement of accounts which it finds equitable.

#### *Article 62*

##### **Duration, extension and termination**

1. This Agreement shall remain in force until the end of the tenth full cocoa year after its entry into force, unless extended under paragraph 4 of this article, or terminated earlier under paragraph 5 of this article.

2. The Council shall review the present Agreement five years after its entry into force and shall take decisions as appropriate.

3. While this Agreement is in force, the Council may decide to renegotiate it with a view to having the renegotiated agreement enter into force at the end of the tenth 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 4 of this article.

4. The Council may extend this Agreement in whole or in part for two periods not exceeding two cocoa years each. The Council shall notify the Depositary of any such extension.

5. The Council may at any time 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 25 shall continue until the financial liabilities relating to the operation of this Agreement have been discharged. The Council shall notify the Depositary of any such decision.

6. 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. The Council shall have during that period the necessary powers for the conclusion of all administrative and financial matters.

7. Notwithstanding the provisions of paragraph 2 of article 59, a Member which does not wish to participate in this Agreement as extended under this article shall so inform the Depositary and the Council. Such Member shall cease to be a party to this Agreement from the beginning of the period of extension.

#### *Article 63*

##### **Amendments**

1. The Council may 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 per cent of the exporting Members holding at least 85 per cent of the votes of the exporting Members, and from Contracting Parties representing at least 75 per cent of the importing Members holding at least 85 per cent of the votes of the importing Members, or on such later date as the Council may 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.

## **CHAPTER XVIII SUPPLEMENTARY AND TRANSITIONAL PROVISIONS**

### *Article 64*

#### **Special Reserve Fund**

1. A Special Reserve Fund shall be maintained for the sole purpose of meeting the eventual liquidation expenses of the Organization. The Council shall decide how the interest earned on this Fund will be used.

2. The Special Reserve Fund established by the Council under the International Cocoa Agreement, 1993, shall be transferred to this Agreement for the purpose set out under paragraph 1.

3. A non-Member of the International Cocoa Agreements, 1993 and 2001, which becomes a Member of this Agreement shall be required to contribute to the Special Reserve Fund. The contribution of such Member shall be assessed by the Council on the basis of the number of votes to be held by the Member.

### *Article 65*

#### **Other supplementary and transitional provisions**

1. This Agreement shall be considered as a replacement of the International Cocoa Agreement, 2001.

2. All acts by or on behalf of the Organization or any of its organs under the International Cocoa Agreement, 2001, 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.

DONE at Geneva on 25 June 2010, the texts of this Agreement in the Arabic, Chinese, English, French, Russian and Spanish languages being equally authentic.

## ANNEXES

### Annex A

#### Exports of cocoa<sup>a/</sup> calculated for the purposes of article 57 (Entry into force)

Country	b/	2005/06	2006/07	2007/08	Average 3-year period 2005/06 - 2007/08	
		(tonnes)			(Share)	
Côte d'Ivoire	m	1 349 639	1 200 154	1 191 377	1 247 057	38.75%
Ghana	m	648 687	702 784	673 403	674 958	20.98%
Indonesia		592 960	520 479	465 863	526 434	16.36%
Nigeria	m	207 215	207 075	232 715	215 668	6.70%
Cameroon	m	169 214	162 770	178 844	170 276	5.29%
Ecuador	m	108 678	110 308	115 264	111 417	3.46%
Togo	m	73 064	77 764	110 952	87 260	2.71%
Papua New Guinea	m	50 840	47 285	51 588	49 904	1.55%
Dominican Republic	m	31 629	42 999	34 106	36 245	1.13%
Guinea		18 880	17 620	17 070	17 857	0.55%
Peru		15 414	11 931	11 178	12 841	0.40%
Brazil	m	57 518	10 558	- 32 512	11 855	0.37%
Bolivarian Republic of Venezuela	m	11 488	12 540	4 688	9 572	0.30%
Sierra Leone		4 736	8 910	14 838	9 495	0.30%
Uganda		8 270	8 880	8 450	8 533	0.27%
United Republic of Tanzania		6 930	4 370	3 210	4 837	0.15%
Solomon Islands		4 378	4 075	4 426	4 293	0.13%
Haiti		3 460	3 900	4 660	4 007	0.12%
Madagascar		2 960	3 593	3 609	3 387	0.11%
São Tomé & Príncipe		2 250	2 650	1 500	2 133	0.07%
Liberia		650	1 640	3 930	2 073	0.06%
Equatorial Guinea		1 870	2 260	1 990	2 040	0.06%
Vanuatu		1 790	1 450	1 260	1 500	0.05%
Nicaragua		892	750	1 128	923	0.03%
Congo, Dem. Rep. of		900	870	930	900	0.03%
Honduras		1 230	806	- 100	645	0.02%
Congo		90	300	1 400	597	0.02%
Panama		391	280	193	288	0.01%

<i>Country</i>	<i>b/</i>				<i>Average 3-year period 2005/06 - 2007/08</i>	
		<i>2005/06</i>	<i>2006/07</i>	<i>2007/08</i>	<i>(Share)</i>	
		<i>(tonnes)</i>				
Viet Nam		240	70	460	257	0.01%
Grenada		80	218	343	214	0.01%
Gabon	m	160	99	160	140	-
Trinidad and Tobago	m	193	195	- 15	124	-
Belize		60	30	20	37	-
Dominica		60	20	0	27	-
Fiji		20	10	10	13	-
<b>Total</b>	<b>c/</b>	<b>3 376 836</b>	<b>3 169 643</b>	<b>3 106 938</b>	<b>3 217 806</b>	<b>100.00%</b>

*Notes:*

- a/ Three-year average, 2005/06 – 2007/08 of net exports of cocoa beans plus net exports of cocoa products converted to beans equivalent using the following conversion factors: cocoa butter 1.33; cocoa powder and cake 1.18; cocoa paste/liquor 1.25.
- b/ List restricted to countries which individually exported cocoa in the three-year period 2005/06 to 2007/08, based on information available to the ICCO Secretariat.
- c/ Totals may differ from the sum of constituents due to rounding.
- m Member of the International Cocoa Agreement, 2001 as at 9 November 2009.
- nil, negligible or less than the unit employed

*Source:* International Cocoa Organization, *Quarterly Bulletin of cocoa statistics*, Vol. XXXV, No. 3, Cocoa year 2008/09.

**Annex B**  
**Imports of cocoa<sup>a/</sup> calculated for the purpose of**  
**article 57 (Entry into force)**

Country	b/				Average 3-year period 2005/06 - 2007/08	
		2005/06	2006/07	2007/08	(tonnes)	(Share)
European Union:	m	2 484 235	2 698 016	2 686 041	2 622 764	53.24%
<i>Austria</i>		20 119	26 576	24 609	23 768	0.48%
<i>Belgium/Luxembourg</i>		199 058	224 761	218 852	214 224	4.35%
<i>Bulgaria</i>		12 770	14 968	12 474	13 404	0.27%
<i>Cyprus</i>		282	257	277	272	0.01%
<i>Czech Republic</i>		12 762	14 880	16 907	14 850	0.30%
<i>Denmark</i>		15 232	15 493	17 033	15 919	0.32%
<i>Estonia</i>		37 141	14 986	- 1 880	16 749	0.34%
<i>Finland</i>		10 954	10 609	11 311	10 958	0.22%
<i>France</i>		388 153	421 822	379 239	396 405	8.05%
<i>Germany</i>		487 696	558 357	548 279	531 444	10.79%
<i>Greece</i>		16 451	17 012	17 014	16 826	0.34%
<i>Hungary</i>		10 564	10 814	10 496	10 625	0.22%
<i>Ireland</i>		22 172	19 383	17 218	19 591	0.40%
<i>Italy</i>		126 949	142 128	156 277	141 785	2.88%
<i>Latvia</i>		2 286	2 540	2 434	2 420	0.05%
<i>Lithuania</i>		5 396	4 326	4 522	4 748	0.10%
<i>Malta</i>		34	46	81	54	-
<i>Netherlands</i>		581 459	653 451	681 693	638 868	12.97%
<i>Poland</i>		103 382	108 275	113 175	108 277	2.20%
<i>Portugal</i>		3 643	4 179	3 926	3 916	0.08%
<i>Romania</i>		11 791	13 337	12 494	12 541	0.25%
<i>Slovak Republic</i>		15 282	16 200	13 592	15 025	0.30%
<i>Slovenia</i>		1 802	2 353	2 185	2 113	0.04%
<i>Spain</i>		150 239	153 367	172 619	158 742	3.22%
<i>Sweden</i>		15 761	13 517	14 579	14 619	0.30%
<i>United Kingdom</i>		232 857	234 379	236 635	234 624	4.76%
United States		822 314	686 939	648 711	719 321	14.60%
Malaysia	c/ m	290 623	327 825	341 462	319 970	6.49%
Russian Federation	m	163 637	176 700	197 720	179 352	3.64%
Canada		159 783	135 164	136 967	143 971	2.92%
Japan		112 823	145 512	88 403	115 579	2.35%

Country	b/	Average			3-year period	
		2005/06	2006/07	2007/08	2005/06 - 2007/08	(Share)
		(tonnes)				
Singapore		88 536	110 130	113 145	103 937	2.11%
China		77 942	72 532	101 671	84 048	1.71%
Switzerland	m	74 272	81 135	90 411	81 939	1.66%
Turkey		73 112	84 262	87 921	81 765	1.66%
Ukraine		63 408	74 344	86 741	74 831	1.52%
Australia		52 950	55 133	52 202	53 428	1.08%
Argentina		33 793	38 793	39 531	37 372	0.76%
Thailand		26 737	31 246	29 432	29 138	0.59%
Philippines		18 549	21 260	21 906	20 572	0.42%
Mexico	c/	19 229	15 434	25 049	19 904	0.40%
Korea, Republic of		17 079	24 454	15 972	19 168	0.39%
South Africa		15 056	17 605	16 651	16 437	0.33%
Iran (Islamic Republic of)		10 666	14 920	22 056	15 881	0.32%
Colombia	c/	16 828	19 306	9 806	15 313	0.31%
Chile		13 518	15 287	15 338	14 714	0.30%
India		9 410	10 632	17 475	12 506	0.25%
Israel		11 437	11 908	13 721	12 355	0.25%
New Zealand		11 372	12 388	11 821	11 860	0.24%
Serbia		10 864	11 640	12 505	11 670	0.24%
Norway		10 694	11 512	12 238	11 481	0.23%
Egypt		6 026	10 085	14 036	10 049	0.20%
Algeria		9 062	7 475	12 631	9 723	0.20%
Croatia		8 846	8 904	8 974	8 908	0.18%
Syrian Arab Republic		7 334	7 229	8 056	7 540	0.15%
Tunisia		6 019	7 596	8 167	7 261	0.15%
Kazakhstan		6 653	7 848	7 154	7 218	0.15%
Saudi Arabia		6 680	6 259	6 772	6 570	0.13%
Belarus		8 343	3 867	5 961	6 057	0.12%
Morocco		4 407	4 699	5 071	4 726	0.10%
Pakistan		2 123	2 974	2 501	2 533	0.05%
Costa Rica		1 965	3 948	1 644	2 519	0.05%
Uruguay		2 367	2 206	2 737	2 437	0.05%
Lebanon		2 059	2 905	2 028	2 331	0.05%
Guatemala		1 251	2 207	1 995	1 818	0.04%
Bolivia	c/	1 282	1 624	1 927	1 611	0.03%
Sri Lanka		1 472	1 648	1 706	1 609	0.03%

Country	b/				Average 3-year period 2005/06 - 2007/08	
		2005/06	2006/07	2007/08	(tonnes)	(Share)
El Salvador		1 248	1 357	1 422	1 342	0.03%
Azerbaijan		569	2 068	1 376	1 338	0.03%
Jordan		1 263	1 203	1 339	1 268	0.03%
Kenya		1 073	1 254	1 385	1 237	0.03%
Uzbekistan		684	1 228	1 605	1 172	0.02%
Hong Kong, China		2 018	870	613	1 167	0.02%
Republic of Moldova		700	1 043	1 298	1 014	0.02%
Iceland		863	1 045	1 061	990	0.02%
The former Yugoslav Republic of Macedonia		628	961	1 065	885	0.02%
Bosnia and Herzegovina		841	832	947	873	0.02%
Cuba	c/	2 162	- 170	107	700	0.01%
Kuwait		427	684	631	581	0.01%
Senegal		248	685	767	567	0.01%
Libyan Arab Jamahiriya		224	814	248	429	0.01%
Paraguay		128	214	248	197	-
Albania		170	217	196	194	-
Jamaica	c/	479	- 67	89	167	-
Oman		176	118	118	137	-
Zambia		95	60	118	91	-
Zimbabwe		111	86	62	86	-
Saint Lucia	c/	26	20	25	24	-
Samoa		48	15	0	21	-
Saint Vincent and the Grenadines		6	0	0	2	-
Total	d/	4 778 943	5 000 088	5 000 976	4 926 669	100.00%

*Notes:*

- a/ Three-year average, 2005/06 – 2007/08 of net imports of cocoa beans plus gross imports of cocoa products converted to beans equivalent using the following conversion factors: cocoa butter 1.33; cocoa powder and cake 1.18; cocoa paste/liquor 1.25.
- b/ List restricted to countries which individually imported cocoa in the three-year period 2005/06 to 2007/08, based on information available to the ICCO Secretariat.
- c/ Country may also qualify as an exporting country.
- d/ Totals may differ from the sum of constituents due to rounding.
- m Member of the International Cocoa Agreement, 2001 as at 9 November 2009.
- nil, negligible or less than the unit employed

Source: International Cocoa Organization, *Quarterly Bulletin of cocoa statistics*, Vol. XXXV, No. 3, Cocoa year 2008/09.

**Annex C**

**Producing countries exporting exclusively or partially fine or flavour  
cocoa**

Colombia	Madagascar
Costa Rica	Papua New Guinea
Dominica	Peru
Dominican Republic	Saint Lucia
Ecuador	São Tomé & Príncipe
Grenada	Trinidad and Tobago
Indonesia	Bolivarian Republic of Venezuela
Jamaica	

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