



## United Nations Conference on Trade and Development

Distr.  
LIMITED

TD/RUBBER.3/EX/L.3  
25 October 1994

Original: ENGLISH

UNITED NATIONS CONFERENCE ON NATURAL RUBBER, 1994  
Second part  
Geneva, 3 October 1994  
Agenda item 8

### Executive Committee

RENEGOTIATION OF THE INTERNATIONAL NATURAL RUBBER AGREEMENT, 1987

Articles 2 (paras. 17 and 18), 3, 4, 5, 6, 7, 8, 9, 10, 11, 13,  
15, 16, 17, 18, 19, 21, 22, 23, 24, 25, 27, 28, 33, 34, 35,  
36, 37, 38, 39, 40, 41, 42, 43, 44, 46, 48, 49, 50, 51,  
52, 53, 54, 55, 56, 57, 58, 60, 61, 62, 63, 64, 65  
and 67 cleared by the Legal Drafting Committee

### CHAPTER II. DEFINITIONS

#### Article 2

#### Definitions

(17) "First quoted month" means the calendar month of shipment officially quoted to the Organization by a market for inclusion in the daily market indicator price;

(18) "Established commercial market" means a natural rubber trading centre where a rubber trade association or regulatory body exists meeting the following criteria:

- (a) a written constitution which includes sanctions that could be taken against erring members;
- (b) qualification standards, including financial standards, that members must maintain;
- (c) official written contracts that are legally binding;

- (d) full and binding arbitration to all market participants;
- (e) publishes official daily prices for physical rubber.

### **CHAPTER III. ORGANIZATION AND ADMINISTRATION**

#### Article 3

##### Establishment, headquarters and structure of the International Natural Rubber Organization

1. The International Natural Rubber Organization, established by the International Natural Rubber Agreement, 1979, shall continue in being for the purpose of administering the provisions and supervising the operation of this Agreement.
2. The Organization shall function through the International Natural Rubber Council, its Executive Director and its staff, and such other bodies as are provided for in this Agreement.
3. Subject to the requirement in paragraph 4 of this article, the headquarters of the Organization shall be in [Kuala Lumpur], unless the Council, by special vote, decides otherwise.
4. The headquarters of the Organization shall at all times be located in the territory of a member.

#### Article 4

##### Membership in the Organization

1. There shall be two categories of membership, namely,
  - (a) Exporting; and
  - (b) Importing.
2. The Council shall establish criteria regarding a change by a member in its category of membership as defined in paragraph 1 of this article, taking fully into account the provisions of articles 24 and 27. A member which meets such criteria may change its category of membership subject to the agreement of the Council by special vote.
3. Each contracting party shall constitute a single member of the Organization.

#### Article 5

##### Membership by intergovernmental organizations

1. Any reference in this Agreement to a "Government" or "Governments" shall be construed as including a reference to the European Community and to any intergovernmental organization having responsibilities in respect of the negotiation, conclusion and application of international agreements, in particular commodity agreements. Accordingly, any reference in this Agreement

to signature, ratification, acceptance or approval, or to notification of provisional application, or to accession shall, in the case of such intergovernmental organizations, be construed as including a reference to signature, ratification, acceptance or approval, or to notification of provisional application, or to accession, by such intergovernmental organizations.

2. In the case of votes on matters within their competence, such intergovernmental organizations shall exercise their voting rights with a number of votes equal to the total number of votes attributed, in accordance with article 14, to their member States. In such cases, the member States of such intergovernmental organizations shall not exercise their individual voting rights.

#### **CHAPTER IV. THE INTERNATIONAL NATURAL RUBBER COUNCIL**

##### Article 6

##### Composition of the International Natural Rubber Council

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

2. Each member shall be represented in the Council by one delegate, and may designate alternates and advisers to attend sessions of the Council.

3. An alternate delegate shall be empowered to act and vote on behalf of the delegate during the latter's absence or in special circumstances.

##### 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 provisions of this Agreement, but it 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, without, however, limiting the application of article 41, nor shall it enter into any trading contract for natural rubber, except as provided for specifically in paragraph 5 of article 30. In exercising its capacity to contract the Council shall ensure that the terms of paragraph 4 of article 48 are brought by written notice to the attention of the other parties entering into such contracts, but any failure to do so shall not in itself invalidate such contracts, nor shall it be deemed to be a waiver of such limitation of liability of the members.

2. The Council shall, by special vote, adopt such rules and regulations as are necessary to carry out the provisions of this Agreement and are consistent therewith. These shall include its own rules of procedure and those of the committees referred to in article 18, rules for the administration and operation of the Buffer Stock, 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.

3. For the purposes of paragraph 2 of this article, the Council shall, at its first session after the entry into force of this Agreement, review the rules and regulations established under the International Natural Rubber Agreement, 1987, and adopt them with such modifications as it deems appropriate. Pending such adoption, the rules and regulations established under the International Natural Rubber Agreement, 1987, shall apply.

4. The Council shall keep such records as are required for the performance of its functions under this Agreement.

5. The Council shall publish an annual report on the activities of the Organization and such other information as it considers appropriate.

Article 8  
Delegation of powers

1. The Council may, by special vote, delegate to any committee established under article 18 the exercise of any or all of its powers which, in accordance with the provisions of this Agreement, do not require a special vote of the Council. Notwithstanding this delegation, the Council may at any time discuss and decide any issue that may have been delegated to any of its committees.

2. The Council may, by special vote, revoke any power delegated to a committee.

Article 9  
Cooperation with other organizations

1. The Council may make whatever arrangements are appropriate for consultation or cooperation with the United Nations, its organs and specialized agencies, and other intergovernmental organizations as appropriate.

2. The Council may also make arrangements for maintaining contact with appropriate international non-governmental organizations.

Article 10  
Admission of observers

The Council may invite any non-member Government, or any of the organizations referred to in article 9, to attend as an observer any of the meetings of the Council or of any committee established under article 18.

Article 11  
Chairman and Vice-Chairman

1. The Council shall elect for each year a Chairman and a Vice-Chairman.

2. The Chairman and the Vice-Chairman shall be elected, one from among the

representatives of exporting members and the other from among the representatives of importing members. These offices shall alternate each year between the two categories of members, provided, however, that this shall not prohibit the re-election of either or both, under exceptional circumstances, by special vote of the Council.

3. In the temporary absence of the Chairman, he shall be replaced by the Vice-Chairman. 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 and/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 a meeting of the Council shall vote at that meeting. The voting rights of the member he represents may, however, be exercised in accordance with the provisions of paragraph 3 of article 6, or paragraphs 2 and 3 of article 15.

Article 13  
Sessions

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

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

- (a) The Chairman of the Council;
- (b) The Executive Director;
- (c) A majority of the exporting members;
- (d) A majority of the importing members;
- (e) An exporting member or exporting members holding at least 200 votes;  
or
- (f) An importing member or importing members holding at least 200 votes.

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

4. Notice of any sessions and the agenda for such sessions shall be communicated to members by the Executive Director, in consultation with the Chairman of the Council, at least 30 days in advance, except in cases of emergency when notice shall be communicated at least 10 days in advance.

Article 15  
Voting procedure

1. Each member shall be entitled to cast the number of votes it holds in the Council and shall not be entitled to divide its votes.

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 exercise its voting rights at any session or meeting of the Council.

3. A member authorized by another member to cast the latter member's votes shall cast such votes as authorized.

4. When abstaining, a member shall be deemed not to have cast its votes. A member when present and not voting shall be deemed to have abstained.

#### Article 16

##### Quorum

1. The quorum for any meeting of the Council shall be the presence of a majority of exporting members and a majority of importing members, provided that such members hold at least two thirds of the total votes in their respective categories.

2. If there is no quorum in accordance with paragraph 1 of this article on the day fixed for the meeting and on the following day, the quorum on the third day and thereafter shall be the presence of a majority of exporting members and a majority of importing members, provided that such members hold a majority of the total votes in their respective categories.

3. Representation in accordance with paragraph 2 of article 15 shall be considered as presence.

#### Article 17

##### Decisions

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

2. Where a member avails itself of the provisions of article 15 and its votes are cast at a meeting of the Council, such member shall, for the purposes of paragraph 1 of this article, be considered as present and voting.

#### Article 18

##### Establishment of committees

1. The following committees established by the International Natural Rubber Agreement, 1979, shall continue in being:

- (a) Committee on Administration;
- (b) Committee on Buffer Stock Operations;
- (c) Committee on Statistics; and
- (d) Committee on Other Measures.

Additional committees may also be established by special vote of the Council.

2. Each committee shall be responsible to the Council. The Council shall, by special vote, determine the membership and terms of reference of each committee.

Article 19  
Panel of experts

1. The Council may establish a panel of experts from the rubber industry and trade of exporting and importing members.

2. Any such panel would be available to provide advice and assistance to the Council and its committees, particularly on buffer stock operations and on the other measures referred to in article 43.

3. The membership, functions and administrative arrangements of any such panel would be determined by the Council.

**CHAPTER VI. ACCOUNTS AND AUDIT**

Article 21  
Financial accounts

1. For the operation and administration of this Agreement, there shall be established two accounts :

- (a) The Buffer Stock Account; and
- (b) The Administrative Account.

2. All the following receipts and expenditures in the creation, operation and maintenance of the Buffer Stock shall be brought into the Buffer Stock Account: contributions from members under article 27, revenue from sales of or expenditure in respect of acquisition of buffer stocks; interest on deposits of the Buffer Stock Account; and costs relating to purchase and sales commissions, storage, transportation and handling, maintenance and rotation, and insurance. The Council may, however, by special vote, bring any other type of receipts or expenditures attributable to buffer stock transactions or operations into the Buffer Stock Account.

3. All other receipts and expenditures relating to the operation of this Agreement shall be brought into the Administrative Account. Such expenditures shall normally be met by contributions from members assessed in accordance with article 24.

4. The Organization shall not be liable for the expenses of delegations or observers to the Council or to any committee established under article 18.

Article 22  
Form of payment

Payments to the Administrative and Buffer Stock Accounts shall be made in freely usable currencies or currencies which are convertible in the major foreign

exchange markets into freely usable currencies, and shall be exempt from foreign exchange restrictions.

Article 23

Audit

1. Each financial year, the Council shall appoint auditors for the purpose of auditing its books of account.

2. An independently audited statement of the Administrative Account shall be made available to members as soon as possible, but not later than four months, after the close of each financial year. An independently audited statement of the Buffer Stock Account shall be made available to members not earlier than 60 days, but not later than four months, after the close of each financial year. The audited statements of the Administrative and Buffer Stock Accounts shall be considered for approval by the Council at its next regular session, as appropriate. A summary of the audited accounts and balance sheet shall thereafter be published.

**CHAPTER VII. THE ADMINISTRATIVE ACCOUNT**

Article 24

Approval of the administrative budget and assessment of contributions

1. At its first session after the entry into force of this Agreement, the Council shall approve the administrative budget for the period between the date of the entry into force and the end of the first financial year. Thereafter, during the second half of each financial year, the Council shall approve the administrative budget for the following financial year. The Council shall assess the contribution of each member to that budget in accordance with paragraph 2 of this article.

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. In assessing contributions, the votes of each member shall be calculated without regard to the suspension of any member's voting rights or any redistribution of votes resulting therefrom.

3. The initial contribution to the administrative budget of any Government which becomes a member 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 of the period from the date on which it becomes a member to the end of the current financial year. The assessment made upon other members for that financial year shall not, however, be altered.

Article 25

Payment of contributions to the administrative budget

1. Contributions to the first administrative budget shall become due on a date to be decided by the Council at its first session. Contributions to subsequent



administrative budgets shall become due by 28 February in each financial year. The initial contribution of a Government which becomes a member after the entry into force of this Agreement, assessed in accordance with paragraph 3 of article 24, shall, for the financial year concerned, become due 60 days after the date on which it becomes a member.

2. If a member has not paid its full contribution to the administrative budget within two months after such contribution becomes due in accordance with paragraph 1 of this article, the Executive Director shall request that member to make payment as quickly as possible. If a member has not paid its contribution within two months after such request by the Executive Director, its voting rights in the Organization shall be suspended unless the Council decides otherwise. If a member has still not paid its contribution within four months after such request by the Executive Director, all rights of that member under this Agreement shall be suspended by the Council, unless the Council, by special vote, decides otherwise.

3. For contributions received late, the Council shall levy a penalty charge at the prime interest rate in the host country from the date the contributions become due. The Council may waive such penalty charge up to 31 March of the same financial year on request from a member if, because of its internal laws and regulations, it is not able to pay the contributions to the administrative budget by the due date, in accordance with paragraph 1 of this article.

4. A member whose rights have been suspended under paragraph 2 of this article shall in particular remain liable to pay its contribution and to meet any other of its financial obligations under this Agreement.

## **CHAPTER VIII. THE BUFFER STOCK**

### Article 27

#### Financing of the Buffer Stock

1. Members commit themselves to finance the total cost of the international Buffer Stock of 550,000 tonnes established under article 26, it being understood that shares in the Buffer Stock Account of the International Natural Rubber Agreement, 1987, of those members of the International Natural Rubber Agreement, 1987, which became members of this Agreement shall, with the consent of each member, be carried over to the Buffer Stock Account under this Agreement in accordance with the procedures determined under the provisions of paragraph 3 of article 40 of the International Natural Rubber Agreement, 1987.

2. The financing of both the normal Buffer Stock and the contingency Buffer Stock shall be shared equally between the exporting and importing categories of members. Contributions of members to the Buffer Stock Account shall be apportioned according to their shares of the votes in the Council, except as provided for in paragraphs 3 and 4 of this article.

3. Any importing member whose share of total net imports as set out in the table to be established by the Council under paragraph 4 of article 14 represents 0.1 per cent or less of total net imports shall contribute to the Buffer Stock Account as follows:

(a) If its share of total net imports is less than or equal to 0.1 per cent but more than 0.05 per cent, such member shall contribute an amount assessed on the basis of its actual share of total net imports;

(b) If its share of total net imports is 0.05 per cent or less, such member shall contribute an amount assessed on the basis of a share of 0.05 per cent of total net imports.

4. During any period in which this Agreement is in force provisionally either under paragraph 2 or subparagraph (b) of paragraph 4 of article 60, the financial commitment of each exporting or importing member to the Buffer Stock Account shall not in total exceed that member's contribution, calculated on the basis of the number of votes corresponding to the percentage shares set out in the tables to be established by the Council under paragraph 4 of article 14, of the totals of 275,000 tonnes falling to the exporting and importing categories of members respectively. The financial obligations of members when this Agreement is in force provisionally shall be shared equally by exporting and importing categories of members. At any time when the aggregate commitment of one category exceeds that of the other, the larger of the two aggregates shall be brought equal to the smaller of the two aggregates, each member's votes in that aggregate being reduced in proportion to the shares of votes derived from the tables to be established by the Council under paragraph 4 of article 14. Notwithstanding the provisions of this paragraph and of paragraph 1 of article 28, a member's contribution may not exceed 125 per cent of the amount of its total contribution calculated on the basis of its share in world trade as indicated in annex A or annex B to this Agreement.

5. The total costs of the normal and contingency Buffer Stock of 550,000 tonnes shall be financed by contributions by members in cash to the Buffer Stock Account. Such contributions may, when relevant, be paid by the appropriate agencies of members concerned.

6. The total costs of the 550,000-tonne international Buffer Stock shall be paid from the Buffer Stock Account. Such costs shall include all expenses involved in acquiring and operating the 550,000-tonne international Buffer Stock. In the event that the estimated cost, as given in annex C to this Agreement, cannot fully cover the total cost of acquisition and operations of the Buffer Stock, the Council shall meet and make the necessary arrangements to call up the required contributions to cover such costs according to percentage shares of votes.

#### Article 28

##### Payment of contributions to the Buffer Stock Account

1. There shall be an initial contribution in cash to the Buffer Stock Account equivalent to [70] [100] million Malaysian ringgit. This amount, which represents a working capital reserve for buffer stock operations, shall be apportioned among all members according to their percentage shares of votes, taking into consideration paragraph 3 of article 27, and shall be due within 60 days after the first Council session after the entry into force of this Agreement. The initial contribution of a member due in accordance with this

paragraph shall, with the consent of that member, be made wholly or in part by transfer of that member's share in the cash held in the Buffer Stock Account under the International Natural Rubber Agreement, 1987.

2. The Executive Director may at any time, and independently of the arrangements in paragraph 1 of this article, call for contributions provided that the Buffer Stock Manager has certified that the Buffer Stock Account may require such funds in the next four months.

3. When a contribution is called, it shall be due from members within 60 days of the date of notification. If requested by any member or members accounting for 200 votes in the Council, the Council shall meet in special session and may modify or disapprove the call-up based on an assessment of the need for funds to support buffer stock operations in the next four months. If the Council cannot reach a decision, contributions shall be due from members in accordance with the Executive Director's notification.

4. Contributions called up for the normal and the contingency Buffer Stock shall be valued at the lower trigger action price in effect at the time such contributions are called.

5. The call-up of contributions to the contingency Buffer Stock shall be handled as follows:

(a) At the 300,000-tonne review provided for in article 31, the Council shall make all financial and other arrangements which may be necessary for the prompt implementation of the contingency Buffer Stock including call-up of funds if necessary;

(b) If the Council by special vote under article 30, paragraph 2 decides to bring the contingency Buffer Stock into operation, then the Council shall ensure that:

(i) All members have made all necessary arrangements for financing their respective shares of the contingency Buffer Stock; and

(ii) The contingency Buffer Stock has been invoked and is fully primed for action in accordance with the terms of article 30.

Article 33  
Composition of buffer stocks

1. At its first session after the entry into force of this Agreement, the Council shall name the internationally recognized standard types and grades of ribbed smoked sheets and technically specified rubbers for inclusion in the Buffer Stock, provided that the following criteria are met:

(a) The lowest types and grades of natural rubber authorized for inclusion in the Buffer Stock shall be RSS 3 and TSR 20; and

(b) All types and grades allowed under subparagraph (a) of this paragraph which account for at least 3 per cent of the previous calendar year's international trade in natural rubber shall be named.

2. The Council may, by special vote, change these criteria and/or the selected types/grades if that is necessary to ensure that the composition of the Buffer Stock reflects the evolving market situation, attainment of the stabilization objectives of this Agreement and the need to maintain a high commercial standard of quality of buffer stocks.

3. The Buffer Stock Manager shall make every effort to ensure that the composition of the Buffer Stock closely reflects the export/import patterns for natural rubber, while promoting the stabilization objectives of this Agreement.

4. The Council may, by special vote, direct the Buffer Stock Manager to change the composition of the Buffer Stock if the objective of price stabilization so dictates.

Article 34  
Location of buffer stocks

1. The location of buffer stocks shall ensure economic and efficient commercial operations. In accordance with this principle, the buffer stocks shall be located in the territory of both exporting and importing members, unless the Council, by special vote, decides otherwise. The distribution of the buffer stock rubber shall be consistent with attaining the stabilization objectives of the Agreement while minimizing costs.

2. In order to maintain high commercial quality standards, buffer stocks shall be stored only in warehouses approved on the basis of criteria established by the Council of the International Natural Rubber Agreement, 1987, or revised by the Council under this Agreement.

3. After the entry into force of this Agreement, the Council shall establish and approve the list of warehouses and the necessary arrangements for their use. The Council may, if necessary, review the list of warehouses approved by the Council of the International Natural Rubber Agreement, 1987, and the criteria established by the said Council and maintain or revise them accordingly.

4. The Council shall also periodically review the location of the buffer stocks and may, by special vote, direct the Buffer Stock Manager to change the location of the buffer stocks to ensure economic and efficient commercial operations.

Article 35  
Maintaining the quality of the buffer stocks

The Buffer Stock Manager shall ensure that all buffer stocks are purchased and maintained at a high commercial standard of quality. To help him achieve this, he may rotate natural rubber stored in the Buffer Stock as necessary to ensure such standards, taking into appropriate consideration the cost of such rotation and its impact on the stability of the market. The costs of rotation shall be brought into the Buffer Stock Account.

Article 36

Restriction or suspension of buffer stock operations

1. Notwithstanding the provisions of article 30, the Council, if in session, may by special vote, restrict or suspend the operations of the Buffer Stock, if in its opinion the discharge of the obligations laid upon the Buffer Stock Manager by that article will not achieve the objectives of this Agreement.
2. If the Council is not in session, the Executive Director may, after consultation with the Chairman, restrict or suspend the operations of the Buffer Stock, if in his opinion the discharge of the obligations laid upon the Buffer Stock Manager by article 30 will not achieve the objectives of this Agreement.
3. Immediately after a decision to restrict or suspend the operations of the Buffer Stock under paragraph 2 of this article, the Executive Director shall convene a session of the Council to review such decision. Notwithstanding the provisions of paragraph 4 of article 13, the Council shall meet within 10 days after the date of restriction or suspension and shall, by special vote, confirm or cancel such restriction or suspension. If the Council cannot come to a decision at that session, buffer stock operations shall be resumed without any restriction imposed under this article.
4. As long as any restriction or suspension of buffer stock operations decided in accordance with this article remains in force, the Council shall review this decision at intervals of not longer than three months. If at a session to make such a review the Council does not confirm, by special vote, the continuation of the restriction or suspension, or does not come to a decision, buffer stock operations shall be resumed without restriction.

Article 37

Penalties relating to contributions to the Buffer Stock Account

1. If a member does not fulfil its obligation to contribute to the Buffer Stock Account by the last day such contribution becomes due, it shall be considered to be in arrears. A member in arrears for 60 days or more shall not count as a member for the purpose of voting on matters covered in paragraph 2 of this article.
2. The voting and other rights in the Council of a member in arrears for 60 days or more under paragraph 1 of this article shall be suspended, unless the Council, by special vote, decides otherwise.
3. A member in arrears shall bear interest charges at the prime rate in the host country beginning on the last day such payments become due. Coverage of arrears by the remaining importing and exporting members shall be on a voluntary basis.
4. A member shall not be considered as in arrears if any shortfall in its contribution is only a result of fluctuations in currency exchange rates in the 60 days following the call for payments. In this case, no interest will be charged on the shortfall. However, any such shortfall should be covered by the member within the 60 days following the payment.

5. When the default has been remedied to the satisfaction of the Council, the voting and other rights of the member in arrears for 60 days or more shall be restored. If the arrears have been made good by other members, these members shall be fully reimbursed.

Article 38

Adjustment of contributions to the Buffer Stock Account

1. When the votes are redistributed at the first regular session in each financial year or whenever the membership of the Organization changes, the Council shall make the necessary adjustment of each member's contribution to the Buffer Stock Account in accordance with the provisions of this article. For this purpose, the Executive Director shall determine:

(a) The net cash contribution of each member, by subtracting refunds of contributions to that member in accordance with paragraph 2 of this article from the sum of all contributions paid by that member since the entry into force of this Agreement;

(b) The total net call-ups, by summing the consecutive call-ups and subtracting the total of refunds made in accordance with paragraph 2 of this article;

(c) The revised net contribution for each member, by apportioning the total net call-ups among members on the basis of each member's revised voting share in the Council pursuant to article 14, subject to paragraph 3 of article 27, provided that the voting share of each member shall, for the purpose of this article, be calculated without regard to the suspension of any member's voting rights or any redistribution of votes resulting therefrom.

Where a member's net cash contribution exceeds its revised net contribution, a refund of the difference minus any outstanding penalty interest on arrears shall be made to that member from the Buffer Stock Account. Where a member's revised net contribution exceeds its net cash contribution, a payment of the difference plus any outstanding penalty interest on arrears shall be made by that member to the Buffer Stock Account.

2. If the Council, having regard to paragraphs 2 and 3 of article 28, decides that there are net cash contributions in excess of funds required to support buffer stock operations within the next four months, the Council shall refund such excess net cash contributions less initial contributions unless it decides, by special vote, either to make no such refund or to refund a smaller amount. Members' shares of the amount to be refunded shall be in proportion to their net cash contributions, minus any outstanding penalty interest on arrears. The contribution liability of members in arrears shall be reduced in the same proportion as the refund bears to the total net cash contributions.

3. At the request of a member, the refund to which it is entitled may be retained in the Buffer Stock Account. If a member requests that its refund be retained in the Buffer Stock Account, this amount shall be credited against any additional contribution requested in accordance with article 28. The credit retained in the Buffer Stock Account at the request of a member shall bear interest at the average rate of interest earned on funds in the Buffer Stock

Account, beginning the last day when the amount should normally be reimbursed to that member until the day preceding the actual reimbursement.

4. The Executive Director shall immediately notify members of any required payments or refunds resulting from adjustments made in accordance with paragraphs 1 and 2 of this article. Such payments by members or refunds to members shall be made within 60 days from the date the Executive Director issues such notification.

5. In the event that the amount of cash in the Buffer Stock Account exceeds the value of total net cash contributions of members, such surplus funds shall be distributed upon termination of this Agreement.

#### Article 39

##### The Buffer Stock and changes in exchange rates

1. In the event that the exchange rate between the Malaysian ringgit/Singapore dollar and the currencies of the major natural rubber exporting and importing members changes to the extent that the operations of the Buffer Stock are significantly affected, the Executive Director shall, in accordance with article 36, or members may, in accordance with article 13, call for a special session of the Council. The Council shall meet within 10 days to confirm or cancel measures already taken by the Executive Director pursuant to article 36, and may, by special vote, decide to take appropriate measures, including the possibility of revising the price range, pursuant to the principles of the first sentences of paragraphs 1 and 6 of article 31.

2. The Council shall, by special vote, establish a procedure to determine a significant change in the parities of these currencies for the sole purpose of ensuring the timely convening of the Council.

3. In the event that there is a divergency between the Malaysian ringgit and the Singapore dollar to the extent that buffer stock operations are significantly affected, the Council shall meet to review the situation and may consider the adoption of a single currency.

#### Article 40

##### Liquidation procedures for the Buffer Stock Account

1. On termination of this Agreement, the Buffer Stock Manager shall estimate the total expense of liquidating or transferring to a new international natural rubber agreement the assets of the Buffer Stock Account in accordance with the provisions of this article, and shall reserve that amount in a separate account. If these balances are inadequate, the Buffer Stock Manager shall sell a sufficient quantity of natural rubber in the Buffer Stock to provide the additional sum required.

2. Each member's share in the Buffer Stock Account shall be calculated as follows:

(a) The value of the Buffer Stock shall be the value of the total quantity of natural rubber of each type/grade therein, calculated at the lowest of the current prices of the respective types/grades on markets referred to in

article 32 during the 30 market days preceding the date of termination of this Agreement;

(b) The value of the Buffer Stock Account shall be the value of the Buffer Stock plus the cash assets of the Buffer Stock Account on the date of the termination of this Agreement less any amount reserved under paragraph 1 of this article;

(c) Each member's net cash contribution shall be the sum of its contributions paid throughout the duration of this Agreement less all refunds made under article 38; penalty interest on arrears paid in accordance with paragraph 3 of article 37 shall not constitute a contribution to the Buffer Stock Account;

(d) If the value of the Buffer Stock Account is either greater or less than total net cash contributions, the surplus shall be allocated among members in proportion to each member's time-weighted net contribution share under this Agreement. Any deficit shall be allocated among members in proportion to each member's average number of votes held during its period of membership. In assessing the share of the deficits to be borne by each member, the votes of each member shall be calculated without regard to the suspension of any member's voting rights or any redistribution of votes resulting therefrom;

(e) Each member's share in the Buffer Stock Account shall comprise its net cash contribution, reduced or increased by its shares in deficits or surpluses in the Buffer Stock Account, and reduced by its liability, if any, for outstanding interest on arrears.

3. If this Agreement is to be immediately replaced with a new international natural rubber agreement, the Council shall, by special vote, adopt procedures to ensure efficient transfer to the new agreement, as required by that agreement, of shares in the Buffer Stock Account of members which intend to participate in the new agreement. Any member which does not wish to participate in the new agreement shall be entitled to the payment of its share:

(a) From available cash in proportion to its percentage share of the total net cash contributions to the Buffer Stock Account, within three months; and

(b) From the net proceeds from the disposal of the buffer stocks, by way of orderly sales or by way of transfer to the new international natural rubber agreement at current market prices, which must be concluded within 12 months; unless the Council decides, by special vote, to increase payments under subparagraph (a) of this paragraph.

4. If this Agreement terminates without being replaced by a new international natural rubber agreement which provides for a buffer stock, the Council shall, by special vote, adopt procedures to govern orderly disposal of the Buffer Stock within the maximum period specified in paragraph 6 of article 66, subject to the following constraints:

(a) No further purchases of natural rubber shall be made;



(b) The Organization shall incur no new expenses except those necessary to dispose of the Buffer Stock.

5. Subject to an election by any member to take natural rubber in accordance with paragraph 6 of this article, any cash which remains in the Buffer Stock Account shall be forthwith distributed to members in proportion to their shares as determined in paragraph 2 of this article.

6. In lieu of all or part of a cash payment, each member may elect to take its share in the assets of the Buffer Stock Account in natural rubber, subject to procedures adopted by the Council.

7. The Council shall adopt appropriate procedures for adjustment and payment of members' shares in the Buffer Stock Account. This adjustment shall account for:

(a) Any discrepancy between the price of natural rubber specified in subparagraph (a) of paragraph 2 of this article and the prices at which part or all of the Buffer Stock is sold pursuant to procedures for disposal of the Buffer Stock; and

(b) The difference between estimated and actual liquidation expenses.

8. The Council shall, within 30 days following final transactions of the Buffer Stock Account, meet to effect final settlement of accounts among members within 30 days thereafter.

#### **CHAPTER IX. RELATIONSHIP WITH THE COMMON FUND FOR COMMODITIES**

##### Article 41

##### Relationship with the Common Fund for Commodities

1. The Organization shall take full advantage of the facilities of the Common Fund for Commodities.

2. In respect of the implementation of any project funded under the Second Account of the Common Fund for Commodities, the Organization, as a designated International Commodity Body, shall not incur any financial obligation including for guarantees given by individual members or other entities. Neither the Organization, nor any member by reason of its membership in the Organization shall be responsible for any liability arising from borrowing or lending by any other member or entity in connection with such projects.

#### **CHAPTER X. SUPPLY AND MARKET ACCESS AND OTHER MEASURES**

##### Article 42

##### Supply and market access

1. Exporting members to the fullest extent possible undertake to pursue policies and programmes which maintain continuous availability to consumers of natural rubber supplies.

2. Importing members to the fullest extent possible undertake to pursue policies which will maintain access to their markets for natural rubber.

Article 43  
Other measures

1. With a view to achieving the objectives of this Agreement, the Council shall identify and propose appropriate measures and techniques directed towards promoting:

(a) The development of the natural rubber economy by producing members, through expanded and improved production, productivity and marketing, thereby increasing the export earnings of producing members while at the same time improving the reliability of supply. For this purpose, the Committee on Other Measures shall undertake economic and technical analyses in order to identify:

- (i) Natural rubber research and development programmes and projects of benefit to exporting and importing members, including scientific research in specific areas;
- (ii) Programmes and projects to improve the productivity of the natural rubber industry;
- (iii) Ways and means to upgrade natural rubber supplies and achieve uniformity in quality specification and presentation of natural rubber; and
- (iv) Methods of improving the processing, marketing and distribution of raw natural rubber;

(b) The development of end-uses of natural rubber. For this purpose, the Committee on Other Measures shall undertake appropriate economic and technical analyses in order to identify programmes and projects leading to increased and new uses of natural rubber.

2. The Council shall consider the financial implications of such measures and techniques and seek to promote and facilitate the provision of adequate financial resources, as appropriate, from such sources as international financial institutions and the Second Account of the Common Fund for Commodities.

3. The Council may accept any voluntary contribution in support of approved projects to implement this article. The management of financial contributions shall be subject to rules to be established by special vote of the Council.

4. The Council may make recommendations, as appropriate, to members, international institutions and other organizations to promote the implementation of specific measures under this article.

5. The Committee on Other Measures shall periodically review the progress of those measures which the Council decides to promote and recommend, and shall report thereon to the Council.

## CHAPTER XI. CONSULTATION ON DOMESTIC POLICIES

### Article 44 Consultation

The Council shall consult, at the request of any member, on government natural rubber policies directly affecting supply or demand. The Council may submit its recommendations to members for their consideration.

## CHAPTER XII. STATISTICS, STUDIES AND INFORMATION

### Article 46 Annual assessment, estimates and studies

1. The Council shall prepare an annual assessment on the world natural rubber situation and related areas in the light of the information supplied by members and from all relevant intergovernmental and international organizations.
2. At least once in every half year, the Council shall also estimate production, consumption, exports and imports of natural rubber by specific types and grades, if possible, for the following six months. It shall inform the members of these estimates.
3. The Council shall undertake, or make appropriate arrangements to undertake, studies of trends in natural rubber production, consumption, trade, marketing and prices, as well as of the short-term and long-term problems of the world natural rubber economy.

## CHAPTER XIII. MISCELLANEOUS

### Article 48 General obligations and liabilities of members

1. Members shall for the duration of this Agreement use their best endeavours and cooperate to promote the attainment of the objectives of this Agreement and shall not take any action in contradiction to those objectives.
2. Members shall in particular seek to improve the conditions of the natural rubber economy and to encourage the production and use of natural rubber in order to promote the growth and the modernization of the natural rubber economy for the mutual benefit of producers and consumers.
3. Members shall accept as binding all decisions of the Council under this Agreement and will not implement measures which would have the effect of limiting or running counter to those decisions.
4. The liability of members arising from the operation of this Agreement, whether to the Organization or to third parties, shall be limited to the extent of their obligations regarding contributions to the administrative budget and

to financing of the Buffer Stock under and in accordance with chapters VII and VIII of this Agreement and any obligations that may be assumed by the Council under article 41.

Article 49  
Obstacles to trade

1. The Council shall, in accordance with the annual assessment of the world natural rubber situation referred to in article 46, identify any obstacles to the expansion of trade in natural rubber in its raw, semi-processed or modified forms.

2. The Council may, in order to further the purposes of this article, make recommendations to members to seek in appropriate international fora mutually acceptable practical measures designed to remove progressively and, where possible, to eliminate such obstacles. The Council shall periodically examine the results of such recommendations.

Article 50  
Transportation and market structure of natural rubber

The Council should encourage and facilitate the promotion of reasonable and equitable freight rates and improvements in the transport system, so as to provide regular supplies to markets and to effect savings in the cost of the products marketed.

Article 51  
Differential and remedial measures

Developing importing members, and least developed countries which are members, whose interests are adversely affected by measures taken under this Agreement may apply to the Council for appropriate differential and remedial measures. The Council shall consider taking such appropriate measures in accordance with paragraphs 3 and 4 of section III of resolution 93 (IV) of the United Nations Conference on Trade and Development.

Article 52  
Relief from obligations

1. Where it is necessary on account of exceptional circumstances or emergency or *force majeure* not expressly provided for in this Agreement, the Council may, by special vote, relieve a member of an obligation under this Agreement if it is satisfied by an explanation from that member regarding the reasons why the obligation cannot be met.

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 such obligation, and the reasons for which the relief is granted.

Article 53  
Fair labour standards

Members declare that they will endeavour to maintain labour standards designed to improve the levels of living of workers in their respective natural rubber sectors.

**CHAPTER XIV. COMPLAINTS AND DISPUTES**

Article 54  
Complaints

1. Any complaint that a 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, subject to prior consultation with the members concerned, shall take a decision on the matter.
2. Any decision by the Council that a member is in breach of its obligations under this Agreement shall specify the nature of the breach.
3. Whenever the Council, whether as the result of a complaint or otherwise, finds that a member has committed a breach of this Agreement, it may, by special vote, and without prejudice to such other measures as are specifically provided for in other articles of this Agreement:

(a) Suspend that member's voting rights in the Council and, if it deems necessary, suspend any other rights of such member, including those of holding office in the Council or in any committee established under article 18 and of being eligible for membership of such committees, until it has fulfilled its obligations; or

(b) Take action under article 64, if such breach significantly impairs the operation of this Agreement.

Article 55  
Disputes

1. Any dispute concerning the interpretation or application of this Agreement which is not settled among the members involved shall, at the request of any member party to the dispute, be referred to the Council for decision.
2. In any case where a dispute has been referred to the Council under paragraph 1 of this article, a majority of members holding at least one third of the total votes may require the Council, after discussion, to seek the opinion of an advisory panel constituted under paragraph 3 of this article on the issue in dispute before giving its decision.
3. (a) Unless the Council, by special vote, decides otherwise, the advisory panel shall consist of five persons as follows:

- (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 such persons nominated by the importing members; and
  - (iii) A chairman selected unanimously by the four persons nominated under (i) and (ii) of this subparagraph or, if they fail to agree, by the Chairman of the Council.
- (b) Nationals of members and of non-members shall be eligible to serve on the advisory panel.
- (c) Persons appointed to the advisory panel shall act in their personal capacities and without instructions from any government.
- (d) The expenses of the advisory panel shall be paid by the Organization.
4. The opinion of the advisory panel and the reasons therefor shall be submitted to the Council which, after considering all the relevant information, shall, by special vote, decide the dispute.

#### CHAPTER XV. FINAL PROVISIONS

##### Article 56 Signature

This Agreement shall be open for signature at United Nations Headquarters from ..... to .. ..... .... inclusive by the Governments invited to the United Nations Conference on Natural Rubber, 1994.

##### Article 57 Depositary

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

##### Article 58 Ratification, acceptance and approval

1. This Agreement shall be subject to ratification, acceptance or approval by the signatory Governments in accordance with their respective constitutional or institutional procedures.
2. Instruments of ratification, acceptance or approval shall be deposited with the depositary not later than .. ..... .... The Council may, however, grant extensions of time to signatory Governments which have been unable to deposit their instruments by that date.
3. Each Government depositing an instrument of ratification, acceptance or approval shall, at the time of such deposit, declare itself to be an exporting member or an importing member.

Article 60  
Entry into force

1. This Agreement shall enter into force definitively on .. ..... or on any date thereafter, if by that date Governments accounting for at least 80 per cent of net exports as set out in annex A to this Agreement, and Governments accounting for at least 80 per cent of net imports as set out in annex B to this Agreement, have deposited their instruments of ratification, acceptance, approval or accession, or have assumed full financial commitment to this Agreement.

2. This Agreement shall enter into force provisionally on .. .., or on any date before .. .., if Governments accounting for at least 75 per cent of net exports as set out in annex A to this Agreement, and Governments accounting for at least 75 per cent of net imports as set out in annex B to this Agreement, have deposited their instruments of ratification, acceptance or approval, or have notified the depositary under paragraph 1 of article 59 that they will apply this Agreement provisionally and assume full financial commitment to this Agreement. The Agreement shall remain in force provisionally up to a maximum of 12 months, unless it enters into force definitively under paragraph 1 of this article or the Council decides otherwise in accordance with paragraph 4 of this article.

3. If this Agreement does not come into force provisionally under paragraph 2 of this article by .. .., the Secretary General of the United Nations shall invite, at the earliest time he considers practicable after that date, the Governments which have deposited instruments of ratification, acceptance or approval or have notified him that they will apply this Agreement provisionally, to meet with a view to recommending whether or not such Governments should take the necessary steps to put this Agreement provisionally or definitively into force among themselves in whole or in part. If no conclusion is reached at this meeting, the Secretary-General of the United Nations may convene such further meetings as he considers appropriate.

4. If the requirements for definitive entry into force of this Agreement under paragraph 1 of this article have not been met within 12 calendar months of the provisional entry into force of this Agreement under paragraph 2 of this article, the Council shall, not later than one month before the end of the 12-month period mentioned above, review the future of this Agreement and, subject to paragraph 1 of this article, by special vote, decide:

(a) To put this Agreement definitively into force among the current members in whole or in part;

(b) To keep this Agreement provisionally in force among the current members in whole or in part for an additional year; or

(c) To renegotiate this Agreement.

If no decision is reached by the Council, this Agreement shall terminate at the expiry of the 12-month period. The Council shall inform the depositary of any decision taken under this paragraph.

5. For any Government that deposits its instrument of ratification, acceptance, approval or accession after the entry into force of this Agreement, it shall enter into force for that Government on the date of such deposit.

6. The Executive Director of the Organization shall convene the first session of the Council as soon as possible after the entry into force of this Agreement.

Article 61  
Accession

1. This Agreement shall be open for accession by the Government of any State. Accession shall be subject to conditions to be established by the Council, which shall include, *inter alia*, a time limit for the deposit of instruments of accession, the number of votes to be held and financial obligations. The Council may, however, grant extensions of time to Governments which are unable to deposit their instruments of accession within the time limit set in the conditions of accession.

2. Accession shall be effected by the deposit of an instrument of accession with the depositary. Instruments of accession shall state that the Government accepts all the conditions established by the Council.

Article 62  
Amendments

1. The Council may, by special vote, recommend amendments of this Agreement to the members.

2. The Council shall fix a date by which members shall notify the depositary of their acceptance of the amendment.

3. An amendment shall become effective 90 days after the depositary has received notifications of acceptance from members constituting at least two thirds of the exporting members and accounting for at least 85 per cent of the votes of the exporting members, and from members constituting at least two thirds of the importing members and accounting for at least 85 per cent of the votes of the importing members.

4. After the depositary informs the Council that the requirements for the amendment to become effective have been met, and notwithstanding the provisions of paragraph 2 of this article relating to the date fixed by the Council, a member may still notify the depositary of its acceptance of the amendment, provided that such notification is made before the amendment becomes effective.

5. Any member which has not notified its acceptance of an amendment by the date on which such amendment becomes effective shall cease to be a contracting party as from that date, unless such member has satisfied the Council that its acceptance could not be obtained in time owing to difficulties in completing its constitutional or institutional procedures, and the Council decides to extend for that member the period for acceptance of the amendment. Such member shall not be bound by the amendment before it has notified its acceptance thereof.

6. If the requirements for the amendment to become effective have not been



met by the date fixed by the Council in accordance with paragraph 2 of this article, the amendment shall be considered withdrawn.

Article 63  
Withdrawal

1. A member may withdraw from this Agreement at any time after the entry into force of this Agreement by giving notice of withdrawal to the depositary. That member shall simultaneously inform the Council of the action it has taken.
2. One year after its notice is received by the depositary, that member shall cease to be a contracting party to this Agreement.

Article 64  
Exclusion

If the Council decides that any member is in breach of its obligations under this Agreement and decides further that such breach significantly impairs the operation of this Agreement, it may, by special vote, exclude that member from this Agreement. The Council shall immediately so notify the depositary. One year after the date of the Council's decision, that member shall cease to be a contracting party to this Agreement.

Article 65  
Settlement of accounts with withdrawing or excluded members  
or members unable to accept an amendment

1. In accordance with this article, the Council shall determine any settlement of accounts with a member which ceases to be a contracting party to this Agreement owing to:
  - (a) Non-acceptance of an amendment to this Agreement pursuant to article 62;
  - (b) Withdrawal from this Agreement pursuant to article 63; or
  - (c) Exclusion from this Agreement pursuant to article 64.
2. The Council shall retain any contribution paid to the Administrative Account by a member which ceases to be a contracting party to this Agreement.
3. The Council shall refund the share in the Buffer Stock Account in accordance with article 40 to a member which ceases to be a contracting party owing to non-acceptance of an amendment to this Agreement, withdrawal or exclusion, less its share in any surpluses.
  - (a) Such refund to a member which ceases to be a contracting party owing to non-acceptance of an amendment to this Agreement shall be made one year after the amendment concerned enters into force.
  - (b) Such refund to a member which withdraws shall be made within 60 days after that member ceases to be a contracting party to this Agreement, unless as a result of this withdrawal the Council decides to terminate this Agreement under

paragraph 5 of article 66 prior to such a refund, in which case the provisions of article 40 and paragraph 6 of article 66 shall apply.

(c) Such refund to a member which is excluded shall be made within 60 days after a member ceases to be a contracting party to this Agreement.

4. In the event that the Buffer Stock Account is unable to settle the payment in cash due under subparagraph (a), (b) or (c) of paragraph 3 of this article without either undermining the viability of the Buffer Stock Account or leading to a call-up of additional contributions from members to cover such refunds, payment shall be deferred until the requisite amount of natural rubber in the Buffer Stock can be sold at or above the upper intervention price. In the event that, before the end of the one-year period specified in article 63, the Council informs a withdrawing member that payment will have to be deferred in accordance with this paragraph, the period of one year between notification of intention to withdraw and the actual withdrawal may, if the withdrawing member so wishes, be extended until such time as the Council informs that member that payment of its share can be effected within 60 days.

5. A member which has received an appropriate refund under this article shall not be entitled to any share of the proceeds of liquidation of the Organization. Nor shall such a member be liable for any deficit incurred by the Organization after such refund has been made.

Article 67  
Reservations

No reservations may be made with respect to any of the provisions of this Agreement.

IN WITNESS WHEREOF the undersigned, being duly authorized thereto, have affixed their signatures under this Agreement on the dates indicated.

DONE at Geneva, this ..... day of ....., one thousand nine hundred and ....., the texts of this Agreement in the Arabic, Chinese, English, French, Russian and Spanish languages being equally authentic.