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Agenda item 7

**PREPARATION OF A SUCCESSOR AGREEMENT TO THE
INTERNATIONAL COCOA AGREEMENT, 1993**

Addendum

Draft articles 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, and 68 as cleared
by the Legal Drafting Committee

CHAPTER XVI. FINAL PROVISIONS

Article 58

Signature

This Agreement shall be open for signature at United Nations Headquarters from 1 May 2001 until and including 31 December 2002 by parties to the International Cocoa Agreement, 1993, and Governments invited to the United Nations Cocoa Conference, 2000. The Council under the International Cocoa Agreement, 1993, 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 59

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.
2. Instruments of ratification, acceptance or approval shall be deposited with the depositary not later than 31 December 2003. The Council under the International Cocoa Agreement, 1993, or the Council under this Agreement may, however, grant extensions of time to signatory Governments which are 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, indicate whether it is an exporting Member or an importing Member.

Article 60

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 61

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 62 or, if it is already in force, at a specified date. Each Government giving such notification shall at that time state whether it will be an exporting Member or an importing Member.

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 62

Entry into force

1. This Agreement shall enter into force definitively on 1 September 2003, 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. If this Agreement has not entered into force definitively in accordance with paragraph 1 of this article, it shall enter into force provisionally on 1 January 2002 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 2002, the Secretary-General of the United Nations 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 61.

Article 63

Reservations

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

Article 64

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 62 for its entry into force, the Council shall meet in special session to review the situation and to take appropriate decisions.

Article 65

Exclusion

If the Council finds, under paragraph 3 of article 55, 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 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 66

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 68, the Council may determine any settlement of accounts which it finds equitable.

Article 67

Duration, extension and termination

1. This Agreement shall remain in force until the end of the fifth full cocoa year after its entry into force, unless extended under paragraph 3 of this article, or terminated earlier under paragraph 4 of this article.
2. While this Agreement is in force, the Council may, by special vote, decide to renegotiate it with a view to having the renegotiated agreement enter into force at the end of the fifth 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 3 of this article.
3. The Council may, by special vote, 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.
4. The Council may at any time, by special vote, 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 26 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.
5. 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.

6. Notwithstanding the provisions of paragraph 2 of article 64, 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 68

Amendments

1. The Council may, by special vote, 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, by special vote, 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.