

INTERNATIONAL SUGAR AGREEMENT ACT 1978

No. 26 of 1978

An Act relating to the International Sugar Agreement, 1977.

BE IT ENACTED by the Queen, and the Senate and House of Representatives of the Commonwealth of Australia, as follows:

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| Short title | 1. This Act may be cited as the <i>International Sugar Agreement Act</i> 1978. ¹ |
| Commence-
ment | 2. This Act shall come into operation on the day on which it receives the Royal Assent. ¹ |
| Interpret-
ation | 3. In this Act, unless the contrary intention appears—
“Agreement” means the agreement known as the International Sugar Agreement, 1977, a copy of which is set out in the Schedule;
“Stock Financing Fund” means the Stock Financing Fund established under Article 49 of the Agreement. |
| Approval of
ratification
of
Agreement | 4. Approval is given to the ratification of the Agreement by Australia in accordance with Article 73 of the Agreement. |
| Appropri-
ation for
contributions
to Stock
Financing
Fund | 5. There may be paid out of the Consolidated Revenue Fund, which is appropriated accordingly, any moneys necessary for the purpose of making any payment by the Commonwealth by way of contribution, under Article 52 of the Agreement, to the Stock Financing Fund. |
| Loans from
Stock
Financing
Fund | 6. (1) Approval is given to the borrowing by the Commonwealth from the Stock Financing Fund of such amounts as may be made available to the Commonwealth by way of a loan in accordance with Article 53 of the Agreement.

(2) Any moneys payable by the Commonwealth to the Stock Financing Fund in accordance with Article 53 of the Agreement are payable out of the Consolidated Revenue Fund, which is appropriated accordingly. |
| Financial
assistance
to
Queensland | 7. (1) Where the Commonwealth has made arrangements with the State of Queensland for or in relation to the holding by the State of any special stocks of sugar held, or to be held, in fulfilment of Australia’s obligations under Article 46 of the Agreement, the Commonwealth may, |

on such terms and conditions as the Minister for Finance determines, lend to the State, for the purpose of assisting the State in defraying the costs of the State in carrying out those arrangements—

- (a) moneys not exceeding in the aggregate the equivalent of moneys made available to the Commonwealth by way of loan from the Stock Financing Fund under Article 53 of the Agreement; and
- (b) moneys not exceeding in the aggregate the equivalent of moneys made available by the International Monetary Fund for the purpose of extending assistance to Australia (in connexion with the financing of the holding of those stocks of sugar) in accordance with the arrangements for the provision of assistance by that Fund known as the buffer stock financing facility.

(2) Moneys lent to the State of Queensland under sub-section (1) shall—

- (a) in the case of moneys referred to in paragraph (1) (a)—be paid out of the Loan Fund; and
- (b) in the case of moneys referred to in paragraph (1) (b)—be paid out of the Consolidated Revenue Fund,

and the Loan Fund and the Consolidated Revenue Fund are appropriated accordingly.

8. The *National Debt Sinking Fund Act* 1966 does not apply to moneys borrowed by the Commonwealth, under Article 46 of the Agreement, from the Stock Financing Fund.

National
Debt Sinking
Fund Act not
to apply

SCHEDULE

Section 3

INTERNATIONAL SUGAR AGREEMENT, 1977

CHAPTER I—OBJECTIVES

Article 1

Objectives

The objectives of this International Sugar Agreement (hereinafter referred to as this Agreement), in the light of the terms of resolution 93 (IV) adopted by the United Nations Conference on Trade and Development (hereinafter referred to as UNCTAD) at its fourth session are as follows:

- (a) To raise the level of international trade in sugar, particularly in order to increase the export earnings of developing exporting countries;
- (b) To achieve stable conditions in the international trade in sugar, including avoidance of excessive price fluctuations, at price levels which would be remunerative and just to producers and equitable to consumers, and take into account, *inter alia*, the effect of inflation or deflation; variations in exchange rates; the trend in the prices, consumption, production, trade and stocks of sugar and alternative sweeteners; and the influence on sugar prices of changes in the world economic situation or monetary system;
- (c) To provide adequate supplies of sugar to meet the requirements of importing countries at fair and reasonable prices;

SCHEDULE—continued

- (d) To increase sugar consumption and in particular to promote measures to encourage consumption in countries where per capita consumption is low;
- (e) To promote equilibrium between supply of, and demand for, sugar within an expanding world sugar trade;
- (f) To facilitate the co-ordination of sugar marketing policies and the organization of the market;
- (g) To provide for adequate participation in, and growing access to, the markets of the developed countries for sugar from the developing countries;
- (h) To assess closely developments in the use of any form of substitutes for sugar, including cyclamates and other artificial sweeteners; and
- (i) To further international co-operation in sugar questions.

CHAPTER II—DEFINITIONS

*Article 2**Definitions*

For the purposes of this Agreement:

- (1) “Organization” means the International Sugar Organization referred to in article 3;
- (2) “Council” means the International Sugar Council referred to in article 3;
- (3) “Member” means—
 - (a) a Party to this Agreement, other than a Party with a notification under article 77, subparagraph 1 (b), currently in effect, or
 - (b) a territory or group of territories in respect of which a notification has been made under article 77, paragraph 3;
- (4) “exporting Member” means any exporting country or territory listed as such in annex V to this Agreement which becomes a Member of the Organization, or any country or territory not so listed which is given the status of an exporting Member upon accession to this Agreement or pursuant to article 6;
- (5) “importing Member” means any importing country listed as such in annex V to this Agreement which becomes a Member of the Organization, or any country not so listed which is given the status of an importing Member upon accession to this Agreement or pursuant to article 6;
- (6) “Fund” means the Stock Financing Fund established under article 49;
- (7) “special vote” means a vote requiring at least two thirds of the votes cast by exporting Members present and voting and at least two thirds of the votes cast by importing Members present and voting, on condition that these votes are cast by at least half the number of Members present and voting;
- (8) “distributed simple majority vote” means a vote requiring more than half of the total votes of exporting Members present and voting and more than half of the total votes of importing Members present and voting, on condition that these votes are cast by at least half of the number of Members in each category present and voting;
- (9) “financial year” means the quota year;
- (10) “quota year” means the period from 1 January to 31 December inclusive;
- (11) “tonne” means a metric ton, i.e. 1,000 kilogrammes, and “pound” means a pound avoirdupois, i.e. 453.592 grammes; amounts of sugar specified in this Agreement are in terms of raw value, net weight (the raw value of any amount of sugar means its equivalent in terms of raw sugar testing 96 degrees by the polariscope);
- (12) “sugar” means sugar in any of its recognized commercial forms derived from sugar cane or sugar beet, including edible and fancy molasses, syrups and any other form of liquid sugar used for human consumption, but
 - (a) “sugar” as defined above shall not include final molasses or low grade types of non-centrifugal sugar produced by primitive methods nor, for the purposes of establishing the level of exports under this Agreement, sugar destined for uses other than human consumption as food. The Council shall determine the conditions under

SCHEDULE—continued

which sugar shall be considered to be destined for uses other than human consumption as food;

- (b) if the Council resolves that the increased use of sugar mixtures becomes a threat to the objectives of this Agreement, these mixtures shall be deemed to be sugar in respect of their sugar content. The increase in the quantity of sugar mixtures exported over the quantity exported before the entry into force of this Agreement shall, in respect of its sugar content, be charged against the quota in effect or export entitlement of the exporting Member concerned;

(13) “free market” means the total of net imports of the world market, except those resulting from the operation of the special arrangements referred to in chapter IX of this Agreement;

(14) “net imports” means total imports of sugar after deducting total exports of sugar;

(15) “net exports” means total exports of sugar (excluding sugar supplied as stores for ships victualling at domestic ports) after deducting total imports of sugar;

(16) “basic export tonnage” means the quantity established pursuant to article 34;

(17) “global quota” means the quantity specified in article 40, paragraph 2, as may be adjusted in accordance with the provisions of article 44;

(18) “quota in effect” means the quantity of sugar which a Member may export to the free market in excess of its total imports from that market during the relevant quota year, as may be established and adjusted in accordance with this Agreement;

(19) “cent” or “cents” means United States cent or cents;

(20) “daily price” means the price calculated in accordance with the provisions of article 61, paragraph 1;

(21) “prevailing price” on any market day is the average of the daily price over the immediately preceding period of 15 consecutive market days including that market day; the position of the prevailing price in relation to any specific price level is as defined in article 61, paragraph 2;

(22) “entry into force” means the date on which this Agreement enters into force provisionally or definitively, as provided in article 75;

(23) Any reference in this Agreement to a “Government invited to the United Nations Sugar Conference, 1977” shall be construed as including a reference to the European Economic Community (hereinafter referred to as the EEC); accordingly any reference in this Agreement to “signature of this Agreement” or to the “deposit of an instrument of ratification, acceptance, approval or accession” by a Government shall, in the case of the EEC, be construed as including signatures on behalf of the EEC by its competent authority and the deposit of the instrument required by the institutional procedures of the EEC to be deposited for the conclusion of an international agreement;

(24) “developing exporting Members” and “developing importing Members” are those referred to as such in annex III.

CHAPTER III—THE INTERNATIONAL SUGAR ORGANIZATION, ITS MEMBERSHIP AND STATUS

Article 3

Continuation, headquarters and structure of the International Sugar Organization

1. The International Sugar Organization established under the International Sugar Agreement, 1968, and maintained in existence under the International Sugar Agreement, 1973, shall continue in being for the purpose of administering the present Agreement and supervising its operation, with the membership, powers and functions set out in this Agreement.

2. The headquarters of the Organization shall be in London, unless the Council decides otherwise by special vote.

3. The Organization shall function through the International Sugar Council, its Executive Committee, its Executive Director and its staff, as well as the Stock Financing Fund and such other bodies as are provided for in this Agreement.

SCHEDULE—continued

Article 4

Membership of the Organization

1. Each Party shall constitute a single Member of the Organization except as otherwise provided in paragraphs 2 or 3 of this article.
2. (a) When a Party makes a notification under article 77, subparagraph 1 (a), declaring that this Agreement shall extend to a developing territory or territories which wish to participate in this Agreement, there may be, with the express consent and approval of those concerned, either:
 - (i) joint membership for that Party together with these territories; or
 - (ii) when that Party has made a notification under article 77, paragraph 3 separate membership, singly, all together or in groups for the territories that would individually constitute an exporting Member and separate membership for the territories that would individually constitute an importing Member.
- (b) When a Party makes a notification under article 77, subparagraph 1 (b) and paragraph 3, there shall be separate membership as set out in subparagraph (a) (ii) of this paragraph.
3. A Party which has made a notification under article 77, subparagraph 1 (b), and has not withdrawn that notification shall not be a Member of the Organization.

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 in the territory of the United Kingdom shall continue to be governed by the Headquarters Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the International Sugar Organization signed at London on 29 May 1969.
3. If the seat of the Organization is moved to a country which is a Member of the Organization, that Member shall, as soon as possible, conclude with the Organization an agreement to be approved by the Council relating to the status, privileges and immunities of the Organization, of its Executive Director, its staff and experts and of representatives of Members while in that country for the purpose of exercising their functions.
4. Unless any other taxation arrangements are implemented under the agreement envisaged in paragraph 3 of this article and pending the conclusion of that agreement, the new host Member shall:
 - (a) grant exemption from taxation on the remuneration paid by the Organization to its employees, except that such exemption need not apply to its own nationals; and
 - (b) grant exemption from taxation on the assets, income and other property of the Organization.
5. If the seat of the Organization is to be moved to a country which is not a Member of the Organization, the Council shall, before that move, obtain a written assurance from the Government of that country.
 - (a) that it shall, as soon as possible, conclude with the Organization an agreement as described in paragraph 3 of this article; and
 - (b) that, pending the conclusion of such an agreement, it shall grant the exemptions provided for in paragraph 4 of this article.
6. The Council shall endeavour to conclude the agreement described in paragraph 3 of this article with the Government of the country to which the seat of the Organization is to be moved before transferring the seat.

Article 6

Change of status

A Member may change its category of membership on such terms and conditions as the Council may establish in consultation with the Member concerned. In the case of an importing

SCHEDULE—continued

Member changing to the category of an exporting Member, the Council shall also, by special vote, determine the basic export tonnage or export entitlement of that Member, which shall be deemed to be listed in annex I or annex II, as appropriate.

CHAPTER IV—THE INTERNATIONAL SUGAR COUNCIL

*Article 7**Composition of the International Sugar Council*

1. The highest authority of the Organization shall be the International Sugar Council, which shall consist of all the Members of the Organization.

2. Each Member shall be represented by a representative and, if it so desires, by one or more alternates. A Member may also appoint one or more advisers to its representative or alternates.

*Article 8**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 adopt, by special vote, such rules and regulations as are necessary to carry out the provisions of this Agreement and are consistent therewith, including rules of procedure for the Council, its committees, and the Fund, and the financial and staff regulations of the Organization. The Council may, in its rules of procedure, provide a procedure whereby it may, without meeting, decide specific questions.

3. The Council shall keep such records as are required to perform its functions under this Agreement and such other records as it considers appropriate.

4. The Council shall publish an annual report and such other information as it considers appropriate.

*Article 9**Chairman and Vice-Chairman of the Council*

1. For each quota year the Council shall elect from among the delegations a Chairman and a Vice-Chairman, who shall not be paid by the Organization.

2. The Chairman and the Vice-Chairman shall be elected, one from among the delegations of the importing Members and the other from among those of the exporting Members. Each of these offices shall, as a general rule, alternate each quota year between the two categories of Members; provided, however, that this shall not prevent the re-election under exceptional circumstances of the Chairman or Vice-Chairman or both when the Council so decides by special vote. In the case of such re-election of either officer, the rule set out in the first sentence of this paragraph shall continue to apply.

3. In the temporary absence of both the Chairman and the Vice-Chairman or the permanent absence of one or both, the Council may elect from among the delegations new officers, temporary or permanent as appropriate, taking account of the principle of alternating representation set out in paragraph 2 of this article.

4. Neither the Chairman nor any other officer presiding at meetings of the Council shall vote. He may, however, appoint another person to exercise the voting rights of the Member which he represents.

*Article 10**Sessions of the Council*

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

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

- (a) any five Members;
- (b) Members having at least 250 votes;
- (c) the Executive Committee; or
- (d) the Price Review Committee.

SCHEDULE—continued

3. Notice of sessions shall be given to Members at least 30 calendar days in advance, except in case of emergency, when such notice shall be given at least 10 calendar days in advance, and except where the provisions of this Agreement prescribe a different period.

4. Sessions shall be held at the headquarters of the Organization unless the Council decides otherwise by special vote. If any Member invites the Council to meet elsewhere than at the headquarters of the Organization, and the Council agrees so to do, that Member shall pay the additional costs involved.

*Article 11**Votes*

1. The exporting Members shall together hold 1,000 votes and the importing Members shall together hold 1,000 votes.

2. No member shall hold more than 300 votes or less than 5 votes.

3. There shall be no fractional votes.

4. The total 1,000 votes of exporting Members shall be distributed among them pro rata to the weighted average of the following factors:

- | | |
|--|-------------|
| (a) their basic export tonnages or export entitlements, as appropriate | 50 per cent |
| (b) their total net exports | |
| (i) to the free market | 18 per cent |
| (ii) under special arrangements | 7 per cent |
| (c) their total production | 25 per cent |

The figures to be used for the purposes of (b) and (c) above shall be, for each factor, the average of the best two of the three preceding years for which figures are available.

5. Votes of importing Members shall be distributed among them in proportion to their net imports from the free market and under special arrangements, calculated separately according to the following formula:

- Each importing Member shall have that portion of 900 votes which its average annual net imports from the free market over the preceding four years, disregarding the year of its lowest imports from the free market, bear to the total of such average imports from the free market of all importing Members;
- Each importing Member shall have that portion of 100 votes which its imports under special arrangements for the preceding year bear to total imports under special arrangements of all importing Members for the preceding year.

6. Votes shall be distributed at the beginning of each quota year in accordance with the provisions of this article, which distribution shall remain in effect for a full quota year except as provided in paragraph 7 of this article.

7. Whenever the membership of the Organization, the territorial composition of a Member or the composition of the free market changes, or when any Member has its voting rights suspended or recovers its voting rights under any provision of this Agreement, the Council shall redistribute the total votes within the affected category or categories of Members on the basis of the formulae in this article.

*Article 12**Voting procedure of the Council*

1. Each Member shall be entitled to cast the number of votes it holds under article 11. It shall not be entitled to divide such votes.

2. By informing the Chairman in writing, 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 or meetings of the Council. A copy of such authorizations shall be examined by any credentials committee that may be set up under the rules of procedure of the Council.

3. A Member authorized by another Member to cast the votes held by the authorizing Member under article 11 shall cast such votes as authorized and in accordance with paragraph 2 of this article.

SCHEDULE—continued

*Article 13**Decisions of the Council*

1. All decisions of the Council shall be taken and all recommendations shall be made by distributed simple majority vote, unless this Agreement provides for a special vote.
2. In arriving at the number of votes necessary for any decision of the Council, votes of Members abstaining shall not be reckoned. Where a Member avails itself of the provisions of article 12, paragraph 2, 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.
3. All decisions of the Council under this Agreement shall be binding upon Members.

*Article 14**Co-operation with other organizations*

1. The Council shall make whatever arrangements are appropriate for consultation or co-operation with the United Nations and its organs, in particular UNCTAD, and with the Food and Agriculture Organization 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 UNCTAD in international commodity trade, shall as appropriate keep UNCTAD 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 sugar producers, traders and manufacturers.

*Article 15**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 14, paragraph 1, to attend any of its meetings as an observer.

*Article 16**Quorum for the Council*

The quorum for any meeting of the Council shall be the presence of more than half of all exporting Members and more than half of all importing Members, the Members thus present holding at least two thirds of the total votes of all Members in their respective categories. If there is no quorum on the day appointed for the opening of any Council session, or if in the course of any Council session there is no quorum at three successive meetings, the Council shall be convened seven days later; at that time, and throughout the remainder of that session, the quorum shall be the presence of more than half of all exporting Members and more than half of all importing Members, the Members thus present representing more than half of the total votes of all Members in their respective categories. Representation in accordance with article 12, paragraph 2, shall be considered as presence.

CHAPTER V—THE EXECUTIVE COMMITTEE

*Article 17**Composition of the Executive Committee*

1. The Executive Committee shall consist of ten exporting Members and ten importing Members, who shall be elected for each quota year in accordance with article 18 and may be re-elected.
2. Each member of the Executive Committee shall appoint one representative and may appoint in addition one or more alternates and advisers.
3. The Executive Committee shall elect its Chairman for each quota year. He shall not have the right to vote and may be re-elected.

SCHEDULE—continued

4. The Executive Committee shall meet at the headquarters of the Organization, unless it decides otherwise. If any Member invites the Executive Committee to meet elsewhere than at the headquarters of the Organization, and the Executive Committee agrees so to do, that Member shall pay the additional costs involved.

*Article 18**Election of the Executive Committee*

1. The exporting and importing members of the Executive Committee shall be elected in the Council by the exporting and importing Members of the Organization respectively. The election within each category shall be held in accordance with paragraphs 2 to 7 inclusive of this article.

2. Each Member shall cast all the votes to which it is entitled under article 11 for a single candidate. A Member may cast for another candidate any votes which it exercises pursuant to article 12, paragraph 2.

3. The ten candidates receiving the largest number of votes shall be elected; however, to be elected on the first ballot a candidate must secure at least 60 votes.

4. If less than ten candidates are elected on the first ballot, further ballots shall be held in which only Members which did not vote for any of the candidates elected shall have the right to vote. In each further ballot, the minimum number of votes required for election shall be successively diminished by five until the ten candidates are elected.

5. Any Member which did not vote for any of the members elected may subsequently assign its votes to one of them, subject to paragraphs 6 and 7 of this article.

6. A member shall be deemed to have received the number of votes originally cast for it when it was elected and, in addition, the number of votes assigned to it, provided that the total number of votes shall not exceed 300 for any member elected.

7. If the votes deemed received by an elected member would otherwise exceed 300, Members which voted for or assigned their votes to such elected member shall arrange among themselves for one or more of them to withdraw their votes from that member and assign or re-assign them to another elected member so that the votes received by each elected member shall not exceed the limit of 300.

8. If a member of the Executive Committee is suspended from the exercise of its voting rights under any of the relevant provisions of this Agreement, each Member which has voted for it or assigned its votes to it in accordance with this article may, during such time as that suspension is in force, assign its votes to any other member of the Committee in its category, subject to paragraph 6 of this article.

9. If a member of the Committee ceases to be a Member of the Organization, the Members which voted for or assigned votes to it and Members which have not voted for, or assigned votes to, another member of the Committee shall, during the next session of the Council, elect a Member to fill the vacancy on the Committee. Any Member which voted for, or assigned its votes to, the member which has ceased to be a Member of the Organization and which does not vote for the Member elected to fill the vacancy on the Committee, may assign its votes to another member of the Committee, subject to paragraph 6 of this article.

10. In special circumstances, and after consultation with the member of the Executive Committee for which it voted or to which it assigned its votes in accordance with the provisions of this article, a Member may withdraw its votes from that member for the remainder of the quota year. That Member may then assign these votes to another member of the Executive Committee in its category but may not withdraw these votes from that other member for the remainder of that year. The member of the Executive Committee from which the votes have been withdrawn shall retain its seat on the Executive Committee for the remainder of that year. Any action taken pursuant to the provisions of this paragraph shall become effective after the Chairman of the Executive Committee has been informed in writing thereof.

*Article 19**Delegation of powers by the Council to the Executive Committee*

1. The Council may, by special vote, delegate to the Executive Committee the exercise of any or all of its powers, other than the following:

(a) location of the headquarters of the Organization under article 3, paragraph 2;

SCHEDULE—continued

- (b) decisions regarding change of status of Members under article 6;
 - (c) appointment of the Executive Director under article 22, paragraph 1, and appointment of the Manager of the Fund under article 50, paragraph 4;
 - (d) approval of the administrative budget and assessment of contributions under article 24, and approval of the accounts of the Fund under article 50, paragraph 2;
 - (e) application of article 29 to new special arrangements under paragraph 5 of that article;
 - (f) determination of basic export tonnages under article 34, paragraph 2;
 - (g) allocations of basic export tonnages under article 35, paragraph 4;
 - (h) establishment of the global quota under article 40;
 - (i) decision under article 41, paragraph 2;
 - (j) revision of the limitations on maximum stocks under article 48, paragraph 4;
 - (k) adoption of rules of procedure for the Fund under article 49, paragraph 3;
 - (l) adjustments of the rate of contributions, and suspension of contributions, to the Fund under article 51, paragraph 1;
 - (m) adjustments of the rate of lending by the Fund under article 53, paragraph 1;
 - (n) decisions regarding the disposition of the assets of the Fund under article 54;
 - (o) adjustment of price levels under article 62;
 - (p) relief from obligations under article 69;
 - (q) decision on disputes under article 70;
 - (r) suspension of voting and other rights of a Member under article 71, paragraph 3;
 - (s) accessions under article 76;
 - (t) exclusion of a Member from the Organization under article 80;
 - (u) recommendation of amendments under article 82;
 - (v) extension or termination of this Agreement under article 83.
2. The Council may at any time revoke any delegation of powers to the Executive Committee.

*Article 20**Voting procedure and decisions of the Executive Committee*

1. Each member of the Executive Committee shall be entitled to cast the number of votes received by it under article 18, and cannot divide these votes.
2. Any decisions taken by the Executive Committee shall require the same majority as that decision would require if taken by the Council.
3. Any Member shall have the right of appeal to the Council, under such conditions as the Council may prescribe in its rules of procedure, against any decision of the Executive Committee.

*Article 21**Quorum for the Executive Committee*

The quorum for any meeting of the Executive Committee shall be the presence of more than half of all exporting members of the Committee and more than half of all importing members of the Committee, the members thus present representing at least two thirds of the total votes of all members of the Committee in their respective categories.

CHAPTER VI—THE EXECUTIVE DIRECTOR AND THE STAFF

*Article 22**The Executive Director and the staff*

1. The Council, after having consulted the Executive Committee, shall appoint the Executive Director by special vote. The terms of appointment of the Executive Director shall be fixed by the Council in the light of those applying to corresponding officials of similar inter-governmental organizations.

SCHEDULE—continued

2. The Executive Director shall be the chief administrative officer of the Organization and shall be responsible for the performance of any duties devolving upon him in the administration of this Agreement.

3. The Executive Director shall appoint the staff in accordance with regulations established by the Council. In framing such regulations the Council shall have regard to those applying to officials of similar intergovernmental organizations.

4. Neither the Executive Director nor any member of the staff shall have any financial interest in the sugar industry or sugar trade.

5. The Executive Director and the staff shall not seek or receive instructions regarding their duties under this Agreement from any Member or from any 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 shall respect the exclusively international character of the responsibilities of the Executive Director and the staff and shall not seek to influence them in the discharge of their responsibilities.

CHAPTER VII—FINANCE

*Article 23**Expenses*

1. The expenses of delegations to the Council, representatives on the Executive Committee and representatives on any of the committees of the Council or of the Executive Committee shall be met by the Members concerned.

2. The expenses necessary for the administration of this Agreement, excluding the costs of administering the Fund, shall be met by annual contributions from Members, assessed in accordance with article 24. If, however, a Member requests special services, the Council may require that Member to pay for them.

3. Appropriate accounts shall be kept for the administration of this Agreement.

*Article 24**Determination 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 Members. In 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 it and the period remaining in the current financial year as well as for the following financial year if that Member joins the Organization between the adoption of the budget for, and the beginning of, that year, but assessments made upon other Members shall not be altered. In assessing contributions of Members joining the Organization after the adoption of a budget for a given quota year or years, the votes of such Members shall be calculated without regard to the suspension of any Member's voting rights and any redistribution of votes resulting therefrom.

4. If this Agreement enters into force more than eight months before the beginning of the first full financial year of this Agreement, the Council shall at its first session approve an administrative budget covering the period up to the commencement of the first full financial year. Otherwise the first administrative budget shall cover both the initial period and the first full financial year.

5. The Council may take such measures as it might deem appropriate when adopting the budget for the first year of this Agreement and for the first year following any extension of this Agreement under article 83 in order to mitigate the effects on contributions for those years resulting from a possibly limited membership of this Agreement at the time of the adoption of budgets for those years.

SCHEDULE—continued

*Article 25**Payment of contributions*

1. Contributions to the administrative budget for each financial year shall be payable in freely convertible currencies 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. If, at the end of four months following the date on which its contribution is due in accordance with paragraph 1 of this article, a Member has not paid its full contribution to the administrative budget, the Executive Director shall request the Member to make payment as quickly as possible. If, at the expiration of two months after the request of the Executive Director, the Member has still not paid its contribution, its voting rights in the Council and in the Executive Committee shall be suspended until such time as it has made full payment of the contribution.

3. A Member whose voting rights have been suspended under paragraph 2 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 so decides by special vote. It shall remain liable to pay its contribution and to meet any other of its financial obligations under this Agreement.

*Article 26**Audit and publication of accounts*

As soon as possible after the close of each financial year, the financial statements of the Organization for that financial year, certified by an independent auditor, shall be presented to the Council for approval and publication.

CHAPTER VIII—SCOPE OF THE REGULATION OF EXPORTS

*Article 27**Scope*

This Agreement regulates supplies of sugar to the free market and makes provision for other related matters. It takes account of the special arrangements referred to in chapter IX and allows for certain donations of sugar to be made without charge to quotas in effect or export entitlements, as referred to in article 28.

*Article 28**Donations of sugar*

1. Donations of sugar by an exporting Member through assistance programmes of the United Nations or of any of its specialized agencies shall not be charged against the quota in effect or export entitlement of the donor Member, unless the Council decides otherwise.

2. The Council shall lay down the conditions under which donations of sugar by an exporting Member other than those under paragraph 1 of this article shall not be charged against the quota in effect or export entitlement of the donor Member. These conditions shall provide, *inter alia*, for prior consultation and adequate safeguards to normal patterns of trade. No sugar so donated shall qualify for exemption under this paragraph unless it is exclusively for domestic consumption in the recipient countries.

3. All donations of sugar by an exporting Member shall be notified promptly to the Council by the donor Member. Without prejudice to paragraphs 1 and 2 of this article, any Member which considers that any donations are causing or are likely to cause prejudice to its interests may request the Council to examine the matter. The Council shall, upon such examination, make such recommendations as it deems appropriate.

4. In its annual report, the Council shall include a report on developments concerning donations of sugar.

SCHEDULE—continued

CHAPTER IX—SPECIAL ARRANGEMENTS

Article 29

General provisions

1. None of the provisions of the other chapters of this Agreement shall interfere with or restrict the rights and obligations of Members under the special arrangements referred to in articles 30, 31, 32 and 33. These special arrangements shall be dealt with as provided for in those articles, subject to paragraphs 2 to 4 of this article.

2. Members recognize that the basic export tonnages and export entitlements established pursuant to articles 34 and 35 are based on the continuity and stability of the special arrangements referred to in articles 30, 31, 32 and 33. If there is any change in the membership of one or more of the special arrangements referred to in those articles and this change affects a Member or Members, or if there is any significant change in the position of one or more Members participating in one or more of these arrangements, the Council shall meet to consider appropriate compensating adjustments to the basic export tonnages or export entitlements established pursuant to articles 34 and 35 in accordance with the following provisions:

- (a) Subject to subparagraphs (b), (c) and (d) of this paragraph, the basic export tonnages of the Member or Members involved shall be reduced by the full extent of any increase (or increased by, or established at a level equal to, the full extent of any reduction) in their annual export entitlements under the special arrangement or arrangements concerned, resulting from the changes in membership or position referred to above;
- (b) Where compensating adjustments have been made under subparagraph (a) of this paragraph, the Council shall also establish any necessary transitional arrangements covering the year in which such changes occur;
- (c) Where compensating adjustments as envisaged in subparagraphs (a) and (b) of this paragraph cannot be made to the basic export tonnages established pursuant to article 34, because the changes in membership or position in the special arrangements referred to above involve a major structural change in the sugar market or a significant change in the position of any major supplier or suppliers under any such special arrangement, the Council shall make recommendations to Members for an amendment of this Agreement under the provisions of article 82 or for the immediate renegotiation of the basic export tonnages. Pending the incorporation of changes in basic export tonnages resulting from such amendment or renegotiation, the changes in, or establishment of, basic export tonnages shall be applied on a provisional basis;
- (d) Any Member or Members not satisfied with the results of the renegotiation under subparagraph (c) of this paragraph may withdraw from this Agreement in accordance with the provisions of article 79.

3. Members which participate in the special arrangements referred to in article 30 shall arrange for the Council to be informed of the details of those arrangements, of the amounts of sugar to be imported or exported under them in each year of this Agreement, and of any change in the nature of those arrangements within 30 days of its occurrence.

4. Members participating in any of the special arrangements mentioned in this chapter shall conduct their sugar trade within those arrangements in a manner which shall not prejudice the objectives of this Agreement. Where special arrangements involve re-exports of sugar to the free market, Members participating in such arrangements shall take such measures as they deem appropriate to ensure that, in those cases where there are no quantitative provisions in the relevant articles of this Agreement relating to such re-exports, any increase of trade under those arrangements over and above the quantities annually traded before the entry into force of this Agreement does not result in an increase of re-exports to the free market.

5. At the request of the Members concerned, the Council may, by special vote, apply the provisions of this article to special arrangements established after the entry into force of this Agreement. The basic export tonnages of the Member or Members involved shall be automatically reduced by the full extent of their annual export entitlements under the special arrangement or arrangements concerned.

SCHEDULE—continued

Article 30

Exports to the European Economic Community

Exports to the EEC under the terms of the Lomé Convention of 1975, the decision of the Council of the EEC of 29 June 1975 relating to the association of overseas countries and territories with the EEC, and the Agreement of 19 July 1975 between the EEC and India, up to the amounts covered by those acts and agreements as may be adjusted under the provisions of those acts and agreements, shall not be charged against the quotas in effect or export entitlements of the Members concerned under chapter X.

Article 31

Exports by Cuba to socialist countries

1. Exports by Cuba to the following socialist countries shall not be charged against its quota in effect under chapter X: Bulgaria, Czechoslovakia, the German Democratic Republic, Hungary, Mongolia, Poland, Romania and the Union of Soviet Socialist Republics.

2. Exports by Cuba to Albania, China, the Democratic People's Republic of Korea, Viet Nam and Yugoslavia up to a total of 650,000 tonnes in each of the first two quota years of this Agreement shall not be charged against its quota in effect under chapter X in those years. The quantity up to which Cuba's exports to those countries will not be charged against Cuba's quota in effect in the third, fourth and fifth quota years shall be determined by the Council in the first quarter of the third quota year in the light of performance during the first two quota years. Such quantity as may be exported to these countries in the first two quota years in excess of an annual total of 650,000 tonnes shall be used for the purposes either of determining the relevant quantity for the third, fourth and fifth quota years or of establishing Cuba's basic export tonnage for these years under article 34, paragraph 2, but not for both purposes.

Article 32

Status of, and exports by, the Union of Soviet Socialist Republics

1. Without prejudice to article 31, all imports by the Union of Soviet Socialist Republics from all origins shall be taken into account and shall therefore give the USSR the status of an importing Member.

2. Without prejudice to its status as established in this article, the USSR shall undertake to limit its total exports of sugar to the free market in each of the first two quota years of this Agreement to 500,000 tonnes.

3. The quantity specified in paragraph 2 of this article and the tonnages to be subsequently established for the following quota years under paragraph 6 of this article shall not include exports by the USSR to any of the countries referred to in article 31, paragraphs 1 and 2.

4. Exports by the USSR under this article shall not be subject to any reduction under chapter X.

5. The USSR shall not be bound by this article during any period when, by virtue of article 44, paragraph 4, quotas and other limitations on exports are inoperative.

6. When considering basic export tonnages for the third, fourth and fifth quota years under article 34, paragraph 2, the Council shall, in agreement with the USSR, establish the tonnages for the USSR's exports for those years.

Article 33

Status of, and exports by, the German Democratic Republic

1. The German Democratic Republic shall undertake on becoming an importing Member to limit its total exports of sugar to the free market in each of the first two quota years of this Agreement to 75,000 tonnes.

2. Exports by the German Democratic Republic under this article shall not be subject to any reduction under chapter X.

3. The German Democratic Republic shall not be bound by this article during any period when, by virtue of article 44, paragraph 4, quotas and other limitations on exports are inoperative.

SCHEDULE—continued

4. When considering basic export tonnages for the third, fourth and fifth quota years under article 34, paragraph 2, the Council shall, in agreement with the German Democratic Republic, establish the tonnages for the German Democratic Republic's exports for those years.

CHAPTER X—REGULATION OF EXPORTS

Article 34

Allocation and adjustment of basic export tonnages

1. The exporting countries listed in annex I shall, upon becoming Members, have the basic export tonnages for each of the first two quota years of this Agreement as specified therein, subject to article 76, subparagraph 2 (b) and paragraph 3.

2. (a) In the first quarter of the third quota year, the basic export tonnages specified in annex I shall be renegotiated. In that renegotiation account shall be taken of:

- (i) the assessment of the free market for the relevant period and the proportion of that market available to exporting Members with basic export tonnages;
- (ii) the basic export tonnages of Members as specified in annex I;
- (iii) export performance and fulfilment of quota and stock obligations during the first two quota years based on statistics satisfactory to the Council. For this purpose the exporting Members concerned undertake to supply to the Council statistics on their production, consumption, exports and imports for the quota year 1979 not later than 15 February 1980;
- (iv) cases where the Council has accepted by special vote that *force majeure* or other special circumstances affected export performance or the fulfilment of obligations under this Agreement;
- (v) the role of sugar in the economy, dependence upon the free market and the special position of small developing Members whose export earnings are heavily dependent upon the export of sugar;
- (vi) realized expansion projects by developing exporting Members with basic export tonnages not exceeding 300,000 tonnes or listed in annex II which have been registered in detail by the Members concerned with the Executive Director upon entry into force of this Agreement as committed projects of major significance for the economies of the countries concerned;
- (vii) any other relevant factors.

(b) The purpose of the renegotiation shall be to establish revised basic export tonnages acceptable to Members. Upon completion of the renegotiation the Council may determine by special vote, which shall include in this instance the affirmative votes of at least two thirds of the exporting Members present and voting, the revised basic export tonnages for each of the third, fourth and fifth quota years.

(c) In the event that the Council has not established revised basic export tonnages for a particular quota year by the process set forth in subparagraph (b) of this paragraph before the end of the first quarter of that year, the basic export tonnage for each Member listed in annex I shall be determined in accordance with the following formula:

- (i) for the third quota year, 50 per cent of its basic export tonnage and 50 per cent of its average relative export performance during 1978 and 1979;
- (ii) for the fourth quota year, the average of its relative export performance during 1978, 1979 and 1980, excluding the year of its lowest relative export performance;
- (iii) for the fifth quota year, the average of its relative export performance in 1979, 1980 and 1981, excluding the year of its lowest relative export performance.

SCHEDULE—continued

- (d) Relative export performance for each quota year shall mean, for each Member subject to the formula in subparagraph (c) of this paragraph, its net exports to the free market, less any excess beyond the tolerance in article 45, paragraph 2, and less the amount of any deficit in its stock obligations under article 46, divided by the aggregate of such net exports as so adjusted for that quota year for all Members subject to the formula, and multiplied by the aggregate of their basic export tonnages including any allocations under article 39 for the previous quota year. In cases where the Council has accepted by special vote that a Member's net exports to the free market were affected by *force majeure* or other special circumstances, that Member's net exports shall be adjusted to the extent so accepted by the Council. Similarly, in cases where the Council has for similar reasons granted temporary relief of stock obligations, the relief so granted shall not be treated as a deficit.
- (e) A Member which, in each of the previous quota years, has fulfilled its quota in effect without incurring any shortfall, whether declared or not, and has taken up its full share of any redistributed shortfalls up to the level of its basic export tonnage, and which has exported to the free market the full amount of its basic export tonnage in any quota year in which quotas were suspended at least six months before the end of that year and has not, in any quota year, been in default of its stock obligations, shall not, as a result of the application of the formula in subparagraph (c) of this paragraph, receive a lower basic export tonnage than its basic export tonnage in the immediately preceding quota year.
- (f) The basic export tonnage assigned to a Member acceding to this Agreement after the first quota year, or assigned to a Member pursuant to article 35 shall not be reduced as a result of the application of the formula in subparagraph (c) of this paragraph, unless such Member has had a basic export tonnage for the entire applicable quota years on which the pertinent part of the formula is based.
- (g) The following procedure shall apply for each developing exporting Member with an initial basic export tonnage of 300,000 tonnes or less with any realized expansion project involving investment in agricultural development and increased milling capacity resulting in additional sugar production for the free market in excess of 10,000 tonnes which has been registered in detail with the Executive Director upon entry into force of this Agreement as a committed project of major significance for the economy of the country concerned and which was subject to verification by the Council within three months of the entry into force of this Agreement. There shall be added to the basic export tonnage established under subparagraphs (c) (i), (ii) and (iii) of this paragraph, as appropriate, an amount of 80 per cent of any unexportable surplus arising from such a project at the beginning of the relevant quota year. By unexportable surplus is meant that quantity of sugar which is held in stock at 31 December over and above domestic consumption requirements, the full stock obligation under article 46, and any quantities due to be shipped under special arrangements, excluding any stocks held in breach of article 48, which surplus could not be exported against quotas in effect, provided that:
- (i) the unexportable surplus shall be subject to verification according to such rules and procedures as may be established by the Council;
 - (ii) the Member in question has met all the conditions set out in sub-paragraph (e) of this paragraph;
 - (iii) the aggregate of such additions does not exceed 200,000 tonnes in each of the quota years 1980, 1981 and 1982. In the event of any excess the individual additions shall be reviewed and reduced to the extent necessary by the Committee established under article 39, paragraph 1, in accordance with the principles and procedures in that article and taking into account any allocations already made under article 39 to the Member concerned;
 - (iv) the residual amount of the unexportable surplus shall not be taken into account in subsequent quota years.

SCHEDULE—continued

3. Notwithstanding paragraph 1 of this article, Colombia's situation shall be taken into account during the negotiations referred to in paragraph 2 of this article, at which time Colombia shall be provided with a basic export tonnage commensurate with its production and domestic consumption.

*Article 35**Provisions for Members with small export entitlements*

1. Each exporting Member listed in annex II shall, in each quota year, have an export entitlement to the free market of 70,000 tonnes which shall not be subject to any adjustment under this chapter.

2. Each Member referred to in paragraph 1 of this article shall inform the Council at least 45 calendar days before the beginning of a quota year of the amounts of sugar it expects to have available for export to the free market within its export entitlement in that quota year. In addition, each such Member shall notify the Council of any change in its expected exports as provided for in article 42. Any such Member which fails to comply with the notification procedure in this paragraph shall have its voting rights suspended for the relevant quota year.

3. The Members referred to in paragraph 1 of this article shall not be subject to the obligations to hold special stocks under article 46. They shall, however, be entitled to hold such stocks up to the quantity, and under the conditions, referred to in paragraph 1 of that article.

4. Any Member referred to in paragraph 1 of this article which considers that, in the light of the development of its production, it should be authorized to export to the free market more than 70,000 tonnes in any quota year, may request the Council to allocate to it a basic export tonnage in excess of that entitlement. If and when the Council by special vote accedes to the request by allocating to that Member such basic export tonnage as it considers appropriate, that Member shall be deemed to be listed in annex I and shall become subject to all the provisions of this Agreement applicable to the Members listed in that annex.

*Article 36**Special provisions for the calculation of net exports*

1. All imports by Czechoslovakia, Hungary, Poland and Romania, except those under article 31, shall be deducted from those Members' total exports when calculating their net exports to the free market.

2. Transfers of sugar within the East African Community by any one of the Partner States of the Community of up to a total amount of 10,000 tonnes shall not be charged against its export entitlement in the relevant quota year; this amount shall not be subject to any adjustments under this chapter.

3. Sugar exported to the members of the Caribbean Community which do not produce sugar (namely, Antigua, Dominica, Grenada, Montserrat, St Lucia and St Vincent) by Barbados, Belize, Jamaica, Guyana, St Kitts—Nevis—Anguilla and Trinidad and Tobago shall not be charged against their quotas in effect or export entitlements in the relevant quota year, provided that the total amount of sugar traded within the Community does not exceed 20,000 tonnes within any one quota year. The exporting Members concerned undertake to inform the Council before the beginning of each quota year of the amount of sugar they intend to export to the other members of the Caribbean Community.

*Article 37**Provisions relating to land-locked developing exporting Members*

1. The fact that one of the land-locked developing exporting Members has not used all of its quota in effect or export entitlement, as appropriate, in one or more quota years shall not be a ground for considering that it has not fulfilled its obligations under this Agreement, thereby incurring the cancellation of its entitlement in the renegotiation provided for in article 34, paragraph 2.

2. In view of the fact that sugar exports of land-locked developing countries are hampered and burdened by the additional cost of transport to seaports, the Council shall consider, in consultation with UNCTAD, in what manner land-locked developing exporting Members might best benefit from the special fund for the land-locked developing countries established by General Assembly resolution 3504 (XXX) of 15 December 1975, up to the maximum such Members are entitled to export.

SCHEDULE—continued

*Article 38**Net exports by developing importing Members*

A developing importing Member may, after due notification to the Council before the beginning of a quota year, export sugar in quantities exceeding its imports, provided that, by the end of that quota year, its net exports do not exceed 10,000 tonnes. Such entitlement shall not be considered as a basic export tonnage and shall not be subject to any adjustments under this chapter. The Members concerned shall, however, comply with such conditions as may be prescribed by the Council in respect of exports by exporting Members.

*Article 39**Hardship reserve*

1. The Council shall establish a Special Hardship Reserve Committee (hereinafter referred to in this article as the Special Committee), under the chairmanship of the Executive Director, to examine such applications as may be made by developing exporting Members which are experiencing hardship as a result of special difficulties and which are in temporary need of additional export entitlements in excess of their respective quotas in effect or export entitlements under other provisions of this Agreement. The Special Committee may make allocations to assist such developing exporting Members up to a total of 200,000 tonnes in the first quota year of this Agreement and up to a total of 300,000 tonnes in each of the subsequent quota years.

2. The Special Committee shall be composed of not more than six Members. In selecting the members of the Committee, the Council shall ensure that they do not represent any interests likely to be affected by a decision on allocations under paragraph 1 of this article.

3. In making allocations under this article, the Special Committee shall generally take into account the prevailing market situation and shall seek to avoid weakening further a weak market situation, but it may make allocations irrespective of the market situation. The Special Committee's decision shall be given effect to by the Council unless amended by special vote.

4. Allocations under this article shall be made only to developing Members with basic export tonnages or export entitlements under other provisions of this Agreement of 300,000 tonnes or less.

5. Of the total allocations which may be made in accordance with this article, priority shall be given to small developing Members whose export earnings are heavily dependent upon the export of sugar. Equally, special consideration shall be given to the claims of those Members whose economies are becoming increasingly dependent upon sugar.

6. The balance of the allocations which may be made under this article may be allocated in accordance with the principles and procedures set out in paragraphs 1 and 2 of this article to any developing exporting Member which provides evidence of hardship to the Special Committee. Intended expansion of the productive capacity of an industry shall not in itself provide justification for an allocation under this paragraph.

7. An allocation under this article shall not be considered as constituting an increase in the basic export tonnage of the Member concerned. It shall form part of the quota in effect of that Member, and that quota in effect shall not be subject to any reductions under article 44, paragraph 3, in that quota year.

*Article 40**Establishment and allocation of the global quota*

1. Prior to 20 November in each quota year, the Council shall adopt an estimate of net import requirements of the free market for the forthcoming quota year. In so doing, the Council shall take into account all relevant factors affecting the demand for and supply of sugar, which shall include, *inter alia*, the trends in consumption, prospective stock variations and current and anticipated price trends.

2. The Council shall then establish a global quota which shall be the estimate arrived at pursuant to paragraph 1 of this article, less the sum of:

- (a) the expected volume of exports to the free market from Members listed in annex II;
- (b) the expected volume of any other exports to the free market permissible under this Agreement other than quotas in effect; and

SCHEDULE—continued

- (c) expected exports to the free market by non-Members.

In so doing the Council shall not be bound by the constraints of article 41.

3. If, by 25 November of the quota year, the Council has not reached agreement on a global quota for the forthcoming quota year, the Executive Director shall submit a proposal to the Council. The Council shall proceed to a decision on the proposal by special vote. If the Council fails to agree by 1 December of the quota year, the global quota for the forthcoming quota year shall be established at the level of the global quota in effect on that date.

4. The Executive Director shall distribute the global quota, whenever it is established or subsequently adjusted, to individual exporting Members listed in annex I pro rata to their basic export tonnages, subject to the adjustments required or permissible under other provisions of this Agreement.

5. Except as provided in article 43, any deductions from the individual quota in effect of a Member provided for in other provisions of this Agreement shall be redistributed pro rata to the basic export tonnages of other exporting Members listed in annex I which are in a position to accept increases in their quotas in effect.

*Article 41**Minimum export entitlements*

1. The export quota of any Member listed in annex I shall not be initially established under article 40, nor subsequently reduced under article 44, below 85 per cent of the basic export tonnage of that Member except as provided for in paragraphs 2, 4 and 7 of this article, and provided that no quota reduction under this article or under article 44 shall result in a quota in effect lower than 70,000 tonnes.

2. If the prevailing price remains below 11 cents per pound for 75 consecutive market days in the first two quota years of this Agreement, quotas in effect shall be reduced by a further 2.5 per cent of the total basic export tonnages of the Members concerned, unless the Council decides otherwise, and subject to paragraphs 3 and 4 of this article and to article 42, paragraph 1.

3. Notwithstanding the provisions of paragraph 2 of this article, the quotas in effect of exporting Members listed in annex I whose average net exports to the free market over the period 1974-1976 amounted to at least 60 per cent of their average production in those years shall not be reduced under articles 40 and 44 below 85 per cent of their basic export tonnages, unless those Members accept the further reduction in paragraph 2 of this article.

4. The quota reduction in paragraph 2 of this article which is not accepted by the Members referred to in paragraph 3 of this article shall be redistributed among the other Members listed in annex I, subject to article 42, paragraph 1, up to a total additional reduction in the quota in effect of each such other Member not exceeding 1 per cent of its individual basic export tonnage.

5. If paragraphs 2 and 4 of this article are applied in any of the first two quota years, the Members referred to in paragraph 3 of this article which do not accept the additional reduction shall not participate in any subsequent quota increases, whether under article 43 or article 44 and whether in the same quota year of thereafter, up to the quantity of the additional reduction which they have not accepted. In those quota increases the quantity involved shall be first distributed among the Members affected by paragraph 4 of this article; thereafter all such increases in quotas in effect shall be allocated in accordance with the provisions of article 40, paragraph 4.

6. When calculating export performance for the purposes of article 34, paragraph 2, total net exports of each Member referred to in paragraph 3 of this article which did not accept the additional reduction under paragraph 2 of this article shall be reduced by the amount it did not accept, and the export performance of each other Member listed in annex I which was affected by paragraph 4 of this article shall be increased by the amount of the additional reduction it consequently incurred.

7. The limitations in paragraphs 1, 2 and 3 of this article shall not apply where deductions from quotas in effect for a quota year are to be made in accordance with article 45, paragraph 5, or article 46, paragraph 8.

SCHEDULE—continued

Article 42

Notice of, and action on, unused quotas

1. Each exporting Member listed in annex I shall keep the Council informed as to whether or not it expects that it will use all of its quota in effect and, if not, of what part of that quota it expects will be used. For this purpose, each such exporting Member shall make at least two notifications to the Council in each quota year, as follows: one, as soon as possible after the establishment and allocation of the global quota under article 40, but not later than 15 May, and another, as soon as possible after 15 May but not later than 30 September. Any difference between the quantity notified under this paragraph and the quota in effect prior to the notification shall be considered as a shortfall and the quota in effect of the Member concerned shall be reduced by that amount. The quota in effect of a Member whose quota in effect has been reduced under this paragraph shall not be further reduced as a result of the operation of articles 40, 41 or 44, until the quota in effect of other Members has been reduced to the same percentage level of their basic export tonnages.

2. If an exporting Member fails to submit to the Council by 15 May a notification in accordance with paragraph 1 of this article, it shall have its voting rights suspended for the remainder of that quota year.

3. If an exporting Member fails to submit to the Council between 15 May and 30 September a notification in accordance with paragraph 1 of this article, it shall not be eligible to share in any subsequent quota increases in that quota year.

4. If by 30 September an exporting Member notifies the Council under Paragraph 1 of this article that it expects to use more than the quantity which it had notified to the Council by 15 May, it shall be entitled to export the difference between the amounts involved in the two notifications, subject to the following provisions:

- (a) if such difference does not exceed 10,000 tonnes, no further action shall be taken by the Council;
- (b) if such difference exceeds 10,000 tonnes, the exporting Member concerned shall receive priority in the re-allocations of any shortfalls that may be made subsequently in that quota year to the extent of the amount of such excess;
- (c) the quota in effect of the Member concerned for the relevant quota year shall be increased to include the amounts in subparagraphs (a) and (b) above;
- (d) if no re-allocation of shortfalls are made, the difference between the total excess and 10,000 tonnes shall be charged against the quota in effect of the Member concerned in the following quota year;
- (e) any excess under the provisions of this paragraph shall not be considered as an excess within the meaning of article 45.

5. If the net exports of an exporting Member to the free market during a quota year fall short of its quota in effect on 1 October of that quota year, less any subsequent net reduction as a result of the operation of article 44, the difference shall, subject to paragraphs 6 and 7 of this article, be deducted from the total amount of sugar which would otherwise have been allocated to that Member in the subsequent quota year as a result of quota increases under the relevant provisions of this Agreement.

6. Deductions under paragraph 5 of this article shall be made only to the extent that the difference as established under that paragraph exceeds 10,000 tonnes, or 5 per cent of the quota in effect on 1 October of the Member concerned up to a maximum of 30,000 tonnes, whichever is larger.

7. The Council may decide not to apply the provisions of paragraphs 2, 3 and 5 of this article, if it is satisfied by an explanation from the Member concerned that it did not fulfil its obligations by reasons of *force majeure* or other special circumstances.

8. The Council may, after consultation with an exporting Member, determine that such Member will be unable to use all or part of its quota in effect. Such determination by the Council shall not have the effect of reducing the quota in effect of the Member concerned nor of depriving that Member of its right to fill that quota later in the quota year. A determination by the Council under this paragraph shall not relieve the Member concerned of its obligations under paragraph 1 of this article nor exempt it from the measures referred to in paragraphs 2, 3 and 5 of this article.

SCHEDULE—continued

*Article 43**Redistribution of shortfalls*

1. The Council shall decide whether shortfalls declared under article 42 should, or should not, be redistributed in whole or in part. In so doing, the Council shall have regard to the trend of the price and its likely movements. However, unless the Council decides otherwise,

- (a) there shall be no redistribution of shortfalls if, and as long as, the prevailing price is below 12 cents per pound;
- (b) all shortfalls shall be redistributed if, and as long as, the prevailing price is above 12 cents per pound.

2. Redistribution of shortfalls shall be made only among those exporting Members listed in annex I which are in a position to accept the resultant increases in their quotas in effect. Such redistributions shall, subject to article 41, paragraph 5, article 42, paragraphs 3 and 4, and paragraph 3 of this article, be made on the following basis:

- (a) pro rata to the basic export tonnages of all those exporting Members until their quotas in effect reach the level of their individual basic export tonnages;
- (b) thereafter, 20 per cent of any shortfall to be redistributed shall be allocated exclusively to developing exporting Members pro rata to their basic export tonnages, and the remaining 80 per cent shall be allocated to all exporting Members participating in the redistribution pro rata to their basic export tonnages;

provided that, if quotas in effect are subsequently reduced, the provisions of subparagraphs (a) and (b) of this paragraph shall apply in reverse.

3. Whenever shortfalls are redistributed, shortfalls declared by developing exporting Members with basic export tonnages not exceeding 180,000 tonnes shall be initially redistributed, pro rata to their basic export tonnages, among the other Members in that category which are in a position to accept increases in their quotas in effect. Shortfalls which are not taken up in such initial redistribution shall then be redistributed in accordance with paragraph 2 of this article.

*Article 44**Price stabilization mechanism*

1. The Council shall keep the market situation under review and shall act as provided for in this chapter with a view to maintaining the free market price within a range of 11 to 21 cents per pound.

A. Quota mechanism

2. The Council may review the level of the global quota at any time during each quota year and, in any event, shall do so at its first regular session in that quota year. It may adjust that level as it deems appropriate. The Council shall normally act in anticipation of the automatic actions envisaged in paragraphs 3 and 4 of this article and may, if it deems appropriate, provide for the phased implementation of the action referred to in paragraph 3. The Council shall also review and, if it so decides, adjust the level of the global quota at each change of the exporters' membership of the Organization.

3. Unless the Council decides otherwise, the following provisions shall apply:

- (a) when the prevailing price, having been at higher levels,
 - (i) moves below 13 cents per pound, the global quota shall be reduced by 5 per cent;
 - (ii) moves below 12 cents per pound, the global quota shall be reduced by 5 per cent;
 - (iii) moves below 11.50 cents per pound, the global quota shall be reduced by 5 per cent;
- (b) when the prevailing price, having been at lower levels,
 - (i) moves above 13 cents per pound, the global quota shall be increased by 5 per cent;
 - (ii) moves above 14 cents per pound, the global quota shall be increased by 5 per cent;

SCHEDULE—continued

- (iii) moves above 14.50 cents per pound, the global quota shall be increased by 5 per cent;
- (c) notwithstanding the provisions of subparagraph (a) of this paragraph, when the prevailing price is below 11 cents per pound, quotas in effect of individual exporting Members listed in annex I shall be limited to their minimum export entitlements as provided in article 41.

4. The Council shall have discretion to suspend quotas and other limitations on exports under any of the provisions of this Agreement whenever the prevailing price is between 14 and 15 cents per pound, but all such restrictions shall be suspended immediately the prevailing price rises above 15 cents per pound. Conversely, whenever the prevailing price is below 15 cents per pound the Council shall have discretion regarding the price level at which quotas and other limitations on exports shall be established or re-established, provided that all such restrictions shall be introduced if the prevailing price falls below 14 cents per pound.

5. Notwithstanding the provisions of paragraphs 2 and 3 of this article, no adjustment in the level of the global quota for a given quota year shall be made within the last 45 days of that quota year.

6. The Executive Director shall notify all exporting Members listed in annex I of their quotas in effect and of any changes thereto under this chapter.

B. Release of special stocks

7. Unless the Council decides otherwise, the following provisions shall apply:

- (a) if, after having been below that level, the prevailing price rises above 19 cents per pound, exporting Members holding stocks under article 46 shall make available for prompt sale and prompt dispatch to the free market such stocks as they hold under that article up to a level of one third of their total obligation as specified in paragraph 3 of that article;
- (b) if the prevailing price rises above 20 cents per pound, these exporting Members shall make available for prompt sale and prompt dispatch to the free market such remaining stocks as they hold under article 46 up to a quantity which, together with such stocks as they have previously released under subparagraph (a) of this paragraph, would amount to two thirds of their total obligation as specified in article 46, paragraph 3;
- (c) if the prevailing price rises above 21 cents per pound, these exporting Members shall make available for prompt sale and prompt dispatch to the free market the balance of the stocks which they hold at that time under article 46.

8. The priority referred to in article 60, paragraph 2, shall apply when stocks are released in accordance with paragraph 7 of this article.

9. Whenever an exporting Member holding stocks under article 46 releases such stocks pursuant to paragraph 7 of this article, it shall so notify the Council and provide copies of shipping documents indicating the amount released.

Article 45

Undertakings on quotas and export entitlements and excesses in net exports

1. Each exporting Member listed in annex I and each Member with an export entitlement to the free market under any of the relevant provisions of chapter IX or chapter X shall ensure that its quota in effect or export entitlement, as appropriate, at the end of the relevant quota year is not exceeded. To this end, no such exporting Member shall, prior to the establishment and allocation of the global quota under article 40 for a given quota year, commit for export to the free market in that quota year more than its minimum export entitlement as provided for in article 41. Furthermore, each such exporting Member shall adopt such additional measures as the Council, by special vote, may establish to ensure effective compliance with the quota system.

SCHEDULE—continued

2. Excesses in net exports to the free market over the quota in effect or export entitlement by the end of the quota year of not more than 10,000 tonnes or 5 per cent of the basic export tonnage or export entitlement of the Member concerned, whichever is less, shall not be considered as being in breach of paragraph 1 of this article. Similarly, if an exporting Member listed in annex I cannot fully implement a quota reduction arising from the operation of articles 40, 41 and 44 because at the time of the reduction that Member has already, within its previously applicable quota in effect, exported or sold sugar to the free market in excess of its quota in effect applying after the quota reduction, and if the quota in effect of that Member at the end of the relevant quota year is also below the amount of such prior commitments, then the latter difference shall not be considered as being in breach of paragraph 1 of this article.

3. Any excess in net exports within the relevant quantity defined in paragraph 2 of this article shall be charged against the quota in effect or export entitlement, of the Member concerned in the following quota year.

4. Any first excess in net exports beyond the relevant quantity in paragraph 2 of this article shall be similarly charged against the quota in effect of the Member concerned in the following quota year, such charge being without prejudice to the provisions of article 71.

5. If an exporting Member listed in annex I exceeds its quota in effect at the end of a quota year for a second or subsequent time, an amount equal to the excess beyond the relevant quantity defined in paragraph 2 of this article shall be charged against that Member's quota in effect in the following quota year. In addition, unless the Council, by special vote, decides on a lesser deduction, an amount equal to that excess shall be deducted from that Member's quota in effect in that following quota year. Any charge or deduction under this paragraph shall be without prejudice to the provisions of article 71.

6. If, during a quota year in which quotas were inoperative for part of the year but were re-established, or established, before the end of that year, total exports by an exporting Member listed in annex I exceed its quota in effect at the end of that year, the quantity to be charged against its quota in effect for the following quota year shall be the amount of the calculated excess, less:

- (a) any quantity exported during the period when quotas were inoperative; and
- (b) any quantity exported during the period when quotas were operative on the basis of sales made during the inoperative period, provided that those exports take place within 90 days of the date of sale.

7. Each exporting Member listed in annex I and each Member with an export entitlement to the free market under any of the relevant provisions of Chapter IX or chapter X shall notify the Council before 1 April in any quota year of its net exports, or its exports, as appropriate, in the previous quota year, so as to enable the Council to determine whether the provisions of paragraph 1 of this article have been complied with.

CHAPTER XI—STOCKS

*Article 46**Special stocks*

1. Exporting countries listed in annex I shall, upon becoming Members, maintain special stocks in accordance with this article for the purposes of article 44. Any Member listed in annex II may, if it so notifies the Council, hold up to 10,000 tonnes as special stocks, in which case all rights and obligations relating to special stocks under this Agreement shall apply to that Member.

2. Special stocks shall consist of uncommitted sugar and shall be additional to any sugar held by the exporting Members concerned for domestic needs or for the purposes of special arrangements referred to in chapter IX. Each such exporting Member may hold special stocks either within its own territory or in the territory of any other country, provided that in each instance the quantity held is subject to verification in accordance with article 47.

3. (a) The aggregate level of special stocks to be held by exporting countries listed in annex I shall be 2.5 million tonnes and, subject to sub-paragraph (b) of this paragraph, shall be apportioned among those countries pro rata to their individual basic export tonnages.

SCHEDULE—continued

- (b) For the purposes of the apportionment and adjustment referred to in subparagraphs (a) and (c) of this paragraph, respectively, the first 70,000 tonnes of the basic export tonnage of a developing exporting Member with a basic export tonnage not exceeding 180,000 tonnes shall not be taken into account, provided, however, that any such Member may have its special stock quantity determined pro rata to its full basic export tonnage if it so notifies the Council within six months of becoming a Member. Any Member which, having been listed in annex II, has been allocated, under article 35, paragraph 4, a basic export tonnage not exceeding 180,000 tonnes, may also have its special stock quantity determined pro rata to its full basic export tonnage if it so notifies the Council within six months of being allocated such a basic export tonnage. Such notifications shall be irrevocable for the duration of this Agreement.
- (c) If one or more exporting countries listed in annex I does not become a Member within six months of the entry into force of this Agreement, or wherever there is a change in the exporters' membership, the special stock obligations of the exporting Members listed in annex I shall be adjusted pro rata to their respective basic export tonnages by the amount necessary to ensure that the aggregate level of special stocks held by exporting Members listed in annex I is maintained at 2.5 million tonnes, provided that no Member shall be obliged to increase the level of its special stocks by more than 7 per cent of the level it would otherwise hold if all the exporting countries listed in annex I were Members.

4. Any exporting Member may voluntarily hold additional sugar in special stocks beyond its obligation under paragraph 3 of this article, provided that the Council, by special vote, has approved such additional stockholding. Where the Council approves such additional stockholding, all rights and obligations relating to special stocks under this Agreement shall apply to such Member in respect of such additional stockholding.

5. With a view to ensuring that special stocks are accumulated as rapidly as possible, the Council shall provide in its rules of procedure for the initial establishment, the maintenance and the replenishment, after release under article 44, paragraph 7, of special stocks and shall prescribe procedures to ensure that obligations under this article are being met, provided that no special stocks shall be accumulated whenever quotas and other limitations on exports are inoperative. Unless the Council, by special vote, decides otherwise and subject to the proviso in the first sentence of this paragraph, total special stocks shall be accumulated as follows by each Member concerned:

- (a) not less than 40 per cent of its total stocking obligations in the first 12 months during which quotas are operative following the entry into force of this Agreement or the release of special stocks under article 44, paragraph 7;
- (b) not less than 80 per cent of its total stocking obligations in the first 24 months during which quotas are operative following the entry into force of this Agreement or the release of special stocks under article 44, paragraph 7; and
- (c) the balance of its total stocking obligations in the first 36 months during which quotas are operative following the entry into force of this Agreement, or the release of special stocks under article 44, paragraph 7.

6. If, owing to special circumstances, an exporting Member considers that it cannot accumulate during a given quota year the special stocks as provided for in paragraph 5 of this article, it shall state its case to the Council, which may, by special vote, vary for a specified period the level of special stocks to be held by the Member concerned.

7. In special circumstances, the Council may, by special vote, authorize individual exporting Members to release a portion of special stocks in situations other than those specified in article 44, paragraph 7. In such cases, the Council shall prescribe the timetable according to which such stocks shall be replenished to the required quantity.

8. Any exporting Member which fails to meet its obligations to accumulate and maintain special stocks, as verified pursuant to article 47, shall have the amount of the deficit from its obligations deducted from its current quota in effect if quotas are operative or from its quota in effect whenever quotas are next operative. If an exporting Member fails to meet its obligations for a second time or more, twice the amount of the deficit shall be deducted from its current quota in effect if quotas are operative, or from its quota in effect whenever quotas are next operative. An exporting Member failing to meet its obligations for a second time or more shall also have its voting rights suspended until such time as it has met its obligations and the Council has decided to restore that Member's voting rights.

SCHEDULE—continued

9. If, following the release of special stocks under article 44, paragraph 7, in whole or in part, quotas and other limitations on exports again become operative, the Council may decide, by special vote, that special stocks shall be replenished in a manner different from that provided for in paragraph 5 of this article.

*Article 47**Verification of stocks*

1. Each exporting Member holding special stocks pursuant to article 46 shall provide to the Fund established under article 49 certificates of existence issued by the Government of the Member for the quantity of sugar held under article 46.

2. Certificates of existence provided to the Fund pursuant to paragraph 1 of this article shall be subject to verification by on-site inspection by independent inspectors commissioned by the Council and agreed to by the exporting Member concerned. The Council shall establish a schedule for such inspection, which shall provide for at least one annual inspection within 30 days before the start of the sugar harvest of each exporting Member having only one annual sugar harvest. For exporting Members with two or more harvests, such inspection shall be scheduled within 30 days before the beginning of each sugar harvest and, in the case of exporting Members having a continuous crop cycle, at least twice each quota year.

3. The Council may establish further rules for the verification of special stocks.

*Article 48**Maximum stocks*

1. Each exporting Member listed in annex I undertakes to adjust its production so that either:

- (a) total stocks held by that Member over and above such stocks as it might hold as special stocks under article 46 shall not exceed, on a fixed date each year immediately preceding the start of the new crop, such date to be agreed with the Council, an amount equal to 20 per cent of its production in the immediately preceding calendar year or of its average production in the four preceding calendar years, whichever is larger; or
- (b) the quantity of sugar held by that Member over and above stocks for domestic consumption requirements and such stocks as it might hold as special stocks under article 46 shall not exceed, on a fixed date each year immediately preceding the start of the new crop, such date to be agreed with the Council, an amount equal to 20 per cent of its total exports in the preceding calendar year or of its average total exports in the four preceding calendar years, whichever is larger.

2. Each exporting country listed in annex I shall, on becoming a Member, notify the Council which of the alternatives in paragraph 1 of this article it accepts as applicable to it.

3. On application by any such exporting Member, the Council may, if it considers such action justified by special circumstances, authorize that Member to hold quantities in excess of the amounts deriving from paragraph 1 of this article.

4. During the course of the renegotiation referred to in article 34, paragraph 2, the Council shall consider the operation of this article and shall, if necessary, revise the limitations in paragraph 1 of this article by special vote.

CHAPTER XII—STOCK FINANCING FUND

*Article 49**Establishment of the Stock Financing Fund*

1. There is established a Stock Financing Fund for the purpose of providing financial assistance in accordance with article 53 to exporting Members holding special stocks pursuant to article 46.

2. The Fund shall be located at the headquarters of the Organization and shall, as a subordinate body of the Organization, be covered by the Headquarters Agreement referred to in article 5, paragraph 2.

3. The Fund shall operate in accordance with this chapter and such rules of procedure, regulations and directives as the Council may, by special vote, adopt to carry out the provisions of this chapter.

SCHEDULE—continued

4. The provisions of this chapter shall come into effect on the first day of the first month following 180 days after the entry into force of this Agreement.

5. Without prejudice to article 80 and unless the Council decides otherwise by special vote, any Member which has failed to meet its obligations under this chapter shall have its voting rights suspended until such time as it has met its obligations.

*Article 50**Management of the Fund*

1. The accounts of the Fund shall be maintained separately from all other accounts of the Organization.

2. The costs of administering the Fund shall be paid from the accounts of the Fund and shall be approved by the Council separately from its administrative budget referred to in article 24.

3. The provisions of article 26 shall govern the audit of the accounts of the Fund. The Council or the Executive Director may arrange for a more frequent audit of these accounts if it is deemed necessary.

4. The Council, after consulting the Executive Director, shall, by special vote, appoint the Manager of the Fund on such terms as the Council shall fix. The Manager shall be subject to the provisions of article 22, paragraphs 4 and 5. He shall, within the provisions of this chapter and in conformity with such rules of procedure, regulations and directives as may be adopted by the Council under article 49, paragraph 3, be responsible to the Executive Director for the management of the Fund.

*Article 51**Contributions to the Fund*

1. There shall be a contribution to the Fund in accordance with this article on free market sugar exported from, or imported into, the customs territory of Members. The rate of contribution shall be 0.28 cent per pound for raw sugar *tel quel*; this rate shall be adjusted for white and refined sugar by such factor or factors as shall be established in the rules of procedure. At any time after 1 January 1979, the Council may, by special vote, increase or decrease the rate of contribution, provided that the capacity of the Fund to cover the level of payments required under this chapter is maintained and provided further that, if it is increased, such rate shall not exceed 0.33 cent per pound; the Council may, by special vote, suspend the contribution if it is no longer required to meet the level of payments under this chapter.

2. Subject to paragraph 4 of this article, no Member shall permit the import of free market sugar into its customs territory, unless such import is accompanied by a certificate authorized by the Council to the effect that the appropriate contribution has been paid to the Fund.

3. Subject to paragraph 5 of this article, no exporting Member and no importing Member with an export entitlement to the free market under chapter IX shall permit the export from its customs territory of free market sugar which is not demonstrably destined for import by Members, unless such export is accompanied by a certificate authorized by the Council to the effect that the appropriate contribution has been paid to the Fund.

4. Imports for internal consumption by importing Members in the category of the least developed countries, as defined by the United Nations, shall not be subject to the payment of a contribution, provided that these Members apply the certification procedure in paragraph 2 of this article in such a manner as shall be prescribed in the rules of procedure.

5. The Council shall provide in its rules of procedure for the issuance of standard certificates of contribution, and for the collection of the appropriate contribution, through authorized agents. Such rules shall also ensure that the contribution is not paid twice in respect of any quantity of sugar. These rules take into account commercial practices of the sugar trade and shall be designed to avoid encumbering the movement of sugar while ensuring the integrity of the contribution system. They shall also contain provisions covering the export, or import, of free market sugar through transit countries, whether or not refined therein.

6. Contributions shall be paid in freely convertible currencies and shall be exempt from foreign-exchange restrictions.

SCHEDULE—continued

*Article 52**Additional resources of the Fund*

1. The Council may accept unconditional voluntary contributions to the Fund from any source.

2. For the purpose of providing the Fund with bridging finance to cover short-term discrepancies between receipts and payments, the Council may, by special vote, decide to borrow from private sources, governments, or international financial institutions, provided that no Member shall be liable for such obligations of the Organization.

3. The Council may, by special vote, decide to take appropriate steps to protect and if possible increase the resources of the Fund which are temporarily surplus to those needed for the purposes of this chapter, provided that all reasonable steps shall be taken to avoid the risk of loss of resources and to ensure that there will be adequate liquidity for the purposes of this chapter.

*Article 53**Lending by the Fund*

1. Subject to the provisions of this chapter, the Fund shall lend, free of interest, to each exporting Member holding special stocks pursuant to the requirements of article 46 an amount equal to 1.50 cents per pound per year on stocks so held in conformity with their minimum obligations under paragraph 5 of that article. If the Fund has adequate financial reserves, the Council may also, by special vote, authorize the Fund to make loans in respect of special stocks held by Members in excess of their minimum obligations under article 46, paragraph 5, first within their total obligations under paragraph 3 of that article and secondly under paragraph 4 of that article. Where stocks are held for a period of less than one year, the amount lent shall be in proportion to the period within the year during which stocks are held. Loans from the Fund shall be made on a quarterly basis, beginning with the first quarter after the coming into effect of this chapter, and, if the financial reserves of the Fund so allow, shall apply retroactively in respect of such special stocks as may have been constituted under article 46 prior to the provisions of this chapter coming into effect. These loans shall be used by the exporting Members concerned for the exclusive purpose of helping to defray the costs of holding stocks under article 46. The Council may, by special vote, adjust the rate of lending, having regard to the limitations imposed under article 51, paragraph 1.

2. No loans from the Fund shall be made to any exporting Member unless such Member provides to the Fund a certificate of existence, issued by the Government of such Member, for the sugar accumulated in accordance with article 46, paragraph 5, and has agreed to verification of those stocks pursuant to article 47.

3. Exporting Members shall repay to the Fund the amount of any loans attributable to sugar required to be made available for purchase from stocks pursuant to article 44, paragraph 7, within 90 days of the date such sugar is so required to be made available. Exporting Members which fail to make such repayments shall be subject to the same provisions as those Members which fail to pay their contributions to the administrative budget of the Organization under article 25, paragraphs 2 and 3.

4. No exporting Member shall be eligible for loans from the Fund during any period in which it is not in compliance with its obligations under article 46, article 51, and paragraph 3 of this article.

5. All loans and repayments shall be made in freely convertible currencies and shall be exempt from foreign-exchange restrictions.

*Article 54**Procedures on termination of this Agreement*

1. On termination of this Agreement, the contribution referred to in article 51 shall cease to be due and the Fund shall cease to make any further loans. Contributions paid prior to the termination of this Agreement and received thereafter shall be added to the assets of the Fund.

2. All loans outstanding from the Fund which were not due pursuant to article 53 prior to termination of this Agreement shall not be subject to repayment.

SCHEDULE—continued

3. Any liabilities of the Fund shall be met from the remaining assets of the Fund. If these assets are insufficient to meet outstanding liabilities, Members shall be assessed the additional amounts necessary to meet these liabilities of the Fund, except for those excluded under the provisions of article 52, paragraph 2, in proportion to their shares of the aggregate of total free market net imports and net exports by Members while this chapter was in effect, unless the Council decides otherwise by special vote. Any such assessments shall be added to the contributions of the Members concerned to the administrative budget of the Organization referred to in article 24.

4. Subject to the provisions of paragraph 5 of this article, the Council shall, by special vote, decide upon the disposition of any assets of the Fund remaining after payment of all liabilities. Such disposition may include the transfer of such remaining assets, in whole or in part, to a comparable fund under a successor international sugar agreement.

5. In the event of a transfer of assets as referred to in paragraph 4 of this article, any Member shall be entitled to receive that share of the assets of the Fund remaining after payment of all liabilities which corresponds to its share of the aggregate of total free market net imports and net exports by Members during the period when this chapter was in effect, less any amount due from that Member under article 53 prior to the termination of this Agreement; any Member desiring to avail itself of this provision shall so inform the Council within three months of the decision of the Council under paragraph 4 of this article. Similarly, any Member which does not become a Party to the successor agreement referred to in that paragraph within six months of the entry into force of that agreement shall be entitled to its share of any assets of the Fund which may have been transferred to the comparable fund referred to in paragraph 4 of this article.

*Article 55**Relationship with a Common Fund*

At such time as a Common Fund is established within the framework of the UNCTAD Integrated Program for Commodities, the Council may consider and make appropriate recommendations regarding measures through which the Organization may take full advantage of any financial arrangements available under such a Common Fund.

CHAPTER XIII—ADDITIONAL OBLIGATIONS AND UNDERTAKINGS OF MEMBERS

*Article 56**Undertakings by Members and exports by importing Members*

1. Members undertake to adopt such measures as are necessary to enable them to fulfil their obligations under this Agreement and fully to co-operate with one another in securing the attainment of the objectives of this Agreement.

2. Importing Members undertake to ensure that, except as provided for in article 38, and in respect of sugar *en admission temporaire*, their total exports of sugar shall not exceed their total imports of sugar in the same quota year.

*Article 57**Imports from non-Members*

1. Each Member, for each quota year, except as otherwise provided in paragraphs 2 and 3 of this article, shall limit its maximum imports of sugar from non-Member countries as a group to the following percentages of the average annual quantity which it imported from such countries as a group over the four-year period 1973-1976, disregarding the year of lowest imports from such countries as a group:

- (a) 75 per cent, if, and as long as, the prevailing price is above 11 cents per pound, subject to subparagraph 3 (a) of this article;
- (b) 55 per cent, if, and as long as, the prevailing price is below 11 cents per pound.

2. The limitations in paragraph 1 of this article shall not apply to imports from a country or territory which was a party to the International Sugar Agreement, 1968, but which cannot become a Party to this Agreement in accordance with articles 72, 73, 74 or 76. However, each member shall limit its imports from such non-Members in each quota year to an amount equal to its average annual imports from those non-Members in 1966-1968, 1971-1973 or

SCHEDULE—continued

1974-1976, whichever period for the Member concerned results in the highest quantity. If the Council determines that any non-Member covered by this paragraph is conducting its sugar trade in a manner which interferes with the objectives of this Agreement, it may, by special vote, require the Members concerned to apply to their annual imports from such non-Member the percentage limitation in subparagraph 1 (a) of this article.

3. The limitations in paragraphs 1 and 2 of this article shall not apply:

- (a) whenever the prevailing price is above 21 cents per pound; the limitations in subparagraph 1 (a) and paragraph 2 of this article shall be reinstated when the prevailing price falls below 19 cents per pound, unless the Council decides otherwise;
- (b) to the importation of quantities previously purchased in excess of the relevant limitations in paragraphs 1 or 2 of this article, provided that such quantities are for shipment no more than 90 days after the relevant limitations were re-established, and provided further that these quantities are notified to the Executive Director in accordance with paragraph 4 of this article.

4. Purchases from non-Members which were arranged during the period when the limitations in paragraphs 1 and 2 of this article were not applicable for shipment after the date when such limitations were re-established shall be notified by the Member concerned to the Executive Director in accordance with such rules of procedure as may be established by the Council.

5. Any Member which considers that in a particular quota year it cannot fully carry out its obligations under this article or that these obligations damage, or threaten to damage, its re-export trade in sugar or export trade in sugar-containing products may be relieved of its obligations under paragraph 1 of this article if, and to the extent that, the Council so decides by special vote. The Council shall, in accordance with the provisions of article 69, define in its rules of procedure the circumstances in which and the conditions under which Members may be relieved of their obligations under paragraph 1 of this article, having regard in particular to exceptional and urgent cases arising in the course of customary trade.

6. The obligations established in the preceding paragraphs of this article shall not derogate from any conflicting bilateral or multilateral obligations which Members have entered into with non-Member countries prior to the entry into force of this Agreement, provided that any Member which has such conflicting obligations shall carry them out in such a way as to minimize any conflict with the obligations established in the preceding paragraphs. Such Member shall take steps as soon as possible to bring its obligations into harmony with the provisions of this article and shall inform the Council of the details of the conflicting obligations as well as of the steps taken to minimize or eliminate the conflict.

7. The Council shall provide in its rules of procedure for the notification by Members of their imports from non-Members and for the presentation by the Executive Director of periodic reports and of a comprehensive report after the completion of each quota year, showing, *inter alia*, for the period covered in each report:

- (a) the quantities of sugar exported by individual non-Members to all destinations; and
- (b) the quantities imported by individual Members from non-Members.

8. (a) Any import by a Member under this article in excess of the quantities which it is permitted to import thereunder shall be deducted from the quantity which such Member would otherwise be permitted to import under this article in the immediately following quota year, unless the Council decides otherwise.

- (b) Where deductions under the provisions of subparagraph (a) of this paragraph are to be made, but cannot be fully applied because the quantity to be deducted exceeds the annual entitlement of the Member concerned, the Council shall have recourse to article 71.

9. Any Member which considers that serious prejudice to its interests under this Agreement is caused or threatened by subsidized exports from a non-Member may refer the matter to the Council, which shall examine it in the light of all relevant circumstances and may make recommendations designed to limit the effects of that subsidization on that Member.

10. The limitations in paragraph 1 of this article shall not apply to quantities of refined sugar imported from a non-Member which itself imports at least an equivalent quantity of free market raw sugar from Members. The Council shall establish specific rules for the conditions under which this paragraph shall apply.

SCHEDULE—continued

Article 58

Access to markets

Every developed importing Member undertakes to ensure access to its market for imports of sugar from exporting Members and shall adopt such measures compatible with its domestic legislation as it deems appropriate to its own circumstances to ensure such access to its market.

Article 59

Importers' co-operation in defence of the price

Should the Council deem it desirable, it shall make recommendations to Members which import sugar regarding ways and means of assisting Members which export sugar in their endeavour to ensure that sales take place at prices consistent with the appropriate provisions of this Agreement.

Article 60

Assurances in respect of supplies

1. Members which export sugar undertake that they will offer to Members which import sugar, in a manner consistent with their traditional trading patterns and, if they are exporting Members, within such limits as may be imposed by their quotas in effect or export entitlements, when these are operative, supplies of sugar sufficient to enable Members which import sugar to meet their import requirements from the free market.

2. Members which export sugar shall at all times give priority on commercially equal terms to Members which import sugar, as against non-Members, in all offers of sale to the free market.

3. No Member which exports sugar shall sell sugar on the free market to non-Members on terms commercially more favourable than those which it would be prepared to offer at the same time to Members which import sugar from the free market, taking into account normal trade practices and traditional trade arrangements.

4. Nothing in this article shall prevent any Member which exports sugar from giving more favourable commercial terms to developing importing Members.

CHAPTER XIV—PRICES

Article 61

Daily and prevailing prices

1. For the purposes of this Agreement, the daily price of sugar shall be:

- (a) the average of the spot price under the New York Coffee and Sugar Exchange Sugar Contract No. 11 and the London Sugar Market daily price for Contract No. 2, after conversion of the latter to United States cents per pound free on board and stowed Caribbean port, on the basis of the appropriate current market rate of exchange in London as shall be specified in the rules of procedure, which shall also specify such other relevant factors as should be taken into account when calculating the price; or
 - (b) the lower of the two prices referred to in subparagraph (a) of this paragraph plus five points, if the difference between the two prices is more than ten points.
2. (a) For the purposes of this Agreement, the prevailing price on any market day shall be deemed to be above (or below) a specific level if it is, and remains, above (or below) the specified level for five consecutive market days.
- (b) The prevailing price shall be deemed to remain above (or below) the stated figure until the conditions in subparagraph (a) of this paragraph are met for it to be below (or above) that stated figure.
- (c) When the conditions in subparagraph (a) of this paragraph are met for a provision of this Agreement to become applicable, that provision shall become operative as follows:
- (i) if the provision allows for a discretion of the Council to decide on a course of action different from that prescribed in the provision—on the third market day following that on which those conditions are met;
 - (ii) in all other cases—on the market day following that on which those conditions are met.

SCHEDULE—continued

3. In the event of either of the prices referred to in subparagraph 1 (a) of this article not being available or not representing the price at which sugar is being sold basis 96 degrees polarization on the free market, the Council shall, by special vote, decide to use such other criteria as it deems fit. Such criteria shall be based on spot quotations on recognized sugar exchanges, taking into consideration the respective volume of trade and adequacy of reflection of world prices by such exchanges.

*Article 62**Adjustment of prices*

1. At its second regular session each quota year the Council shall review the prices referred to in this Agreement.

2. In conducting this review the Council shall take into consideration all factors which might affect the achievement of the objectives of this Agreement, including, *inter alia*, the effect of inflation or deflation; variations in exchange rates; the trend in the prices, consumption, production, trade and stocks of sugar and alternative sweeteners; and the influence on sugar prices of changes in the world economic situation or monetary system. Relevant data necessary for conducting this review shall be provided in accordance with paragraph 4 of this article.

3. In the light of this review, the Council may, by special vote, make such adjustments in the prices applicable to the next quota year as it deems necessary to maintain the objectives of this Agreement, provided that the difference between the minimum and maximum prices shall remain 10 cents per pound.

4. A Price Review Committee, comprising four exporting and four importing Members under the chairmanship of the Executive Director, shall be established by the Council. The terms of reference of the Committee shall be as follows:

(a) to collect and assess data on:

- (i) prices, consumption, production, trade and stocks of sugar and alternative sweeteners;
- (ii) the influence on sugar prices of changes in the world economic situation or monetary system, including the effect of world inflation or deflation and variations in exchange rates;
- (iii) any other factors which might affect the achievement of the objectives of this Agreement;

(b) to submit its findings to the Council in advance of its second regular session each quota year.

5. In exceptional circumstances resulting from upheavals in the international economic or monetary situation, or whenever a major change in the value of the United States dollar occurs, the Price Review Committee shall meet to consider the situation. In the light of its examination, the Committee may, if it deems appropriate, request the convening of a special session of the Council to consider what action, if any, should be taken, including any necessary adjustment in the prices. Any decision by the Council to adjust prices under this paragraph shall be taken by special vote and shall take effect forthwith.

6. The provisions of article 82 shall not be applicable to the adjustment of prices under this article.

CHAPTER XV—MEASURES LINKED WITH PRODUCTION AND CONSUMPTION

*Article 63**Labour standards*

Members shall ensure that fair labour standards are maintained in their respective sugar industries and, as far as possible, shall endeavour to improve the standard of living of agricultural and industrial workers in the various branches of sugar production, and of growers of sugar cane and sugar beet.

SCHEDULE—continued

Article 64

Support measures

1. Members recognize that subsidies on the production or marketing of sugar which operate directly or indirectly to increase exports of sugar or to reduce imports of sugar may endanger the fulfilment of the objectives of this Agreement.

2. If any Member grants or maintains any such subsidy, including any form or income or price support, it shall, during each quota year, notify the Council in writing of the extent and nature of the subsidization and of the circumstances making the subsidization necessary. The notification referred to in this paragraph shall be given at the request of the Council, which request shall be made at least once each quota year in such form and at such time as may be provided in the rules of procedure of the Council.

3. In any case in which a Member considers that serious prejudice to its interests under this Agreement is caused or threatened by such subsidization, the Member granting the subsidy shall, upon request, discuss with the other Member or Members concerned, or with the Council, the possibility of limiting the subsidization. In any case in which the matter is brought before the Council, the Council may examine the case with the Members concerned and make such recommendations as it deems appropriate, bearing in mind the particular circumstances of the Member granting the subsidies.

Article 65

Measures to encourage consumption

1. Each Member shall take such action as it deems appropriate to encourage the consumption of sugar and to remove any obstacles which restrict the growth of sugar consumption, having regard to the effects on sugar consumption of customs duties, internal taxes and fiscal charges and quantitative or other controls, and to all other important factors relevant to an assessment of the situation.

2. Each Member shall periodically inform the Council of the measures it has adopted under paragraph 1 of this article and of their effects.

3. The Council shall establish a Sugar Consumption Committee composed of both exporting and importing Members.

4. The Committee shall study, *inter alia*, the following:

- (a) the effects on sugar consumption of the use of any form of substitutes for sugar, including both natural and artificial sweeteners;
- (b) the relative tax treatment of sugar and other sweeteners or raw materials for the production of the latter;
- (c) the effects on the consumption of sugar in different countries of (i) taxation and restrictive measures, (ii) economic conditions and, in particular, balance-of-payments difficulties, and (iii) climatic and other conditions;
- (d) means of promoting consumption, particularly in countries where per capita consumption is low;
- (e) ways and means of co-operating with agencies concerned with the expansion of consumption of sugar and related foodstuffs;
- (f) research into new uses of sugar, its by-products and the plants from which it is derived;

and shall submit its reports to the Council.

CHAPTER XVI—INFORMATION, STUDIES AND ANNUAL REVIEW

Article 66

Information and studies

1. The Organization shall act as a centre for the collection and publication of:

- (a) statistical information on world production, prices, exports and imports, consumption and stocks of sugar; and
- (b) in so far as is considered appropriate, technical information on the cultivation and processing of sugar beet or sugar cane and on the utilization of sugar.

SCHEDULE—continued

2. Members undertake to make available and to supply within the time which may be prescribed in the rules of procedure all such statistics and information as may be identified in those rules as necessary to enable the Organization to discharge its functions under this Agreement. Should this become necessary, the Organization shall use such relevant information as may be available to it from other sources.

3. The information to be supplied by Members under paragraph 2 of this article shall, if the Council so requires, include regular statistical reports on sugar production, consumption, stocks, prices and taxes. Members shall furnish the information requested in as detailed a manner as is practicable. No information shall be published by the organization which might serve to identify the operations of persons or companies producing, processing or marketing sugar.

4. If a Member fails to supply, or finds difficulty in supplying, within a reasonable time, statistical and other information required for the proper functioning of the Organization, the Council may require the Member concerned to explain the reasons therefor. If it is found that technical assistance is needed in the matter, the Council may take any necessary measures.

5. The Organization shall at appropriate times, but not less than twice a year, publish estimates of production and consumption of sugar for the current quota year.

6. The Organization may, to the extent it considers necessary, promote or conduct studies of the economics of sugar production and distribution, including trends and projections, the impact of governmental measures in exporting and importing countries on the production and consumption of sugar, the opportunities for expansion of sugar consumption for traditional and possible new uses, and the effects of the operation of this Agreement on exporters and importers of sugar, including their terms of trade. In the promotion of such studies and research, the Organization may co-operate with international organizations and research institutions.

*Article 67**Reporting on exports, imports and stocks*

1. The Council shall, in its rules of procedure, provide for the maintenance by the Executive Director of a record of:

- (a) the global quota and the quotas in effect, and any subsequent changes therein, throughout a quota year;
- (b) exports by the exporting Members concerned against their quotas in effect or export entitlements, and imports by such members;
- (c) imports and exports by importing Members.

2. The rules shall also provide for the periodic reporting by Members of the information referred to in subparagraphs 1 (b) and (c) of this article, and for the publication of that information by the Organization, together with such other data as the Council may prescribe.

3. The Council may, at any time, adopt measures to ascertain the quantities of sugar exported or imported by Members and by non-Members. Such measures may include the issuance of certificates of origin and other export documents.

4. Each exporting Member holding special stocks pursuant to article 46 shall report to the Executive Director the quantities of sugar held as special stocks on 1 January, 1 April, 1 July and 1 October in each quota year not more than 30 calendar days after these dates.

*Article 68**Annual review*

1. The Council shall as far as possible in each quota year review the operation of this Agreement in the light of the objectives set out in article 1 and the effects of this Agreement on the market and on the economies of individual countries, and in particular of the developing countries, in the preceding quota year. The Council shall then formulate recommendations to Members regarding ways and means of improving the functioning of this Agreement.

2. The report of each annual review shall be published in such form and manner as the Council may decide.

SCHEDULE—continued

CHAPTER XVII—RELIEF FROM OBLIGATIONS

*Article 69**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 that the implementation of that obligation constitutes a serious hardship for, or imposes an inequitable burden on, such Member.

2. The Council, in granting relief to a Member under the terms of 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.

3. The existence in the country of a Member, in one or more years, of exportable sugar in excess of that Member's total permissible exports under chapters IX and X of this Agreement, after providing for its domestic consumption and stocks, shall not constitute the sole basis for application to the Council for a waiver of obligations. For exporting Members listed in annex I, such additional export authorizations as may be granted under this article shall form part of the quota in effect of the Member concerned but shall not be subject to any subsequent adjustments under chapter X. Additional export authorizations granted under this article shall not be taken into account when computing export performance for the purposes of article 34, subparagraph 2 (c).

CHAPTER XVIII—DISPUTES AND COMPLAINTS

*Article 70**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 not less than 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 decides otherwise by special vote, the 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) above 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 decide the dispute by special vote.

*Article 71**Action by the Council on complaints and on non-fulfilment of obligations by Members*

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.

SCHEDULE—continued

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, without prejudice to such other measures as are specifically provided for in other articles of this Agreement, by special vote:

- (a) suspend that Member's voting rights in the Council and in the Executive Committee; and, if it deems it necessary,
- (b) suspend further 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; or, if such breach significantly impairs the operation of this Agreement,
- (c) take action under article 80.

CHAPTER XIX—FINAL PROVISIONS

*Article 72**Signature*

This Agreement shall be open for signature at United Nations Headquarters from 28 October until 31 December 1977 by any Government invited to the United Nations Sugar Conference, 1977.

*Article 73**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 procedures.

2. Instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations not later than 31 December 1977. The Council under the International Sugar Agreement, 1973, as extended, 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.

*Article 74**Notification of provisional application*

1. A signatory Government which intends to ratify, accept or approve this Agreement, or a Government for which the Council has established conditions for accession but which has not yet been able to deposit its instrument, may, at any time, notify the Secretary-General of the United Nations that it will apply this Agreement provisionally either when it enters into force in accordance with article 75 or, if it is already in force, at a specified date.

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, if it is already in force, at a specified date shall, from that time, be a provisional Member until it deposits its instrument of ratification, acceptance, approval or accession and thus becomes a Member.

*Article 75**Entry into force*

1. This Agreement shall enter into force definitively on 1 January 1978, or on any date within six months thereafter, if by that date Governments holding 55 per cent of the votes of the exporting countries and 65 per cent of the votes of the importing countries in accordance with the distribution established in annex V have deposited their instruments of ratification, acceptance, approval or accession with the Secretary-General of the United Nations. It shall also enter into force definitively at any time thereafter if it is provisionally in force 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 1978, or on any date within two months thereafter, if by that date Governments satisfying the percentage requirements of paragraph 1 of this article have deposited their instruments of ratification, acceptance, approval or accession, or have notified under article 74 that they will apply this Agreement provisionally.

SCHEDULE—continued

3. Governments which have deposited instruments of ratification, acceptance, approval or accession, or have deposited notifications of provisional application, by 1 June 1978 or such later date as may be determined by the Council, shall apply as from 1 January 1978 for the first quota year the provisions of this Agreement relating to the regulation of exports, special stocks, and imports from non-Members, except to the extent that such application is the case of an importing Member was not possible by reason of the lack of domestic legal authority, prior to such Government becoming a Member or a provisional Member.

4. On 1 January 1978, or on any date within 12 months thereafter, and at the end of each subsequent six-month period during which this Agreement is provisionally in force, the Governments of any of those countries which have deposited instruments of ratification, acceptance, approval or accession may decide to put this Agreement definitely into force among themselves in whole or in part. These Governments, and Governments which have deposited notifications of provisional application, may also decide that this Agreement shall enter into force provisionally, if it is not already provisionally in force, or continue provisionally in force, or lapse.

*Article 76**Accession*

1. This Agreement shall be open to accession by the Governments of all States upon conditions established by the Council. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations. Instruments of accession shall state that the Government accepts all the conditions established by the Council.

2. In establishing the conditions referred to in paragraph 1 of this article, the Council may, by special vote, establish a basic export tonnage, or export entitlement, which shall be deemed to be listed in annex I or annex II, as appropriate.

- (a) for a country which is not so listed;
- (b) for a country which is so listed but does not accede within twelve months of the date of entry into force of this Agreement; provided, however, that, if such country is listed in annex I and it accedes within twelve months of the date of entry into force of this Agreement, the basic export tonnage figure specified in that annex for that country shall be applicable to it.

3. In the case of accession by the EEC, the conditions of paragraph 2 of this article shall not necessarily apply. The Council may instead, by special vote establish such special conditions, including the establishment of the relevant voting entitlement, as may be mutually acceptable, having regard to the objectives of this Agreement.

4. The Council under the International Sugar Agreement, 1973, as extended, may, pending the entry into force of this Agreement, establish the conditions referred to in paragraph 1 of this article, subject to confirmation by the Council under this Agreement.

*Article 77**Territorial application*

1. Any Government may, at the time of signature or deposit of an instrument of ratification, acceptance, approval or accession or at any time thereafter, by notification to the Secretary-General of the United Nations, declare that this Agreement:

- (a) shall also extend to any of the developing territories for whose international relations it is for the time being ultimately responsible and which has notified the Government concerned that it wishes to participate in this Agreement; or
- (b) shall extend only to any of the developing territories for whose international relations it is for the time being ultimately responsible and which has notified the Government concerned that it wishes to participate in this Agreement;

and this Agreement shall extend to the territories named therein from the date of such notification if this Agreement has already entered into force for that Government or, if the notification has been made prior thereto, on the date on which this Agreement enters into force for that Government. Any Government which has made a notification under (b) above may subsequently withdraw that notification and may make a notification or notifications to the Secretary-General of the United Nations under (a) above.

SCHEDULE—continued

2. When a territory to which this Agreement has been extended under paragraph 1 of this article subsequently assumes responsibility for its international relations, the Government of that territory may, within 90 days after the assumption of responsibility for its international relations, declare by notification to the Secretary-General of the United Nations that it has assumed the rights and obligations of a Contracting Party to this Agreement. It shall, as from the date of such notification, become a Contracting Party to this Agreement. If such Contracting Party is an exporting country and is not listed in annex I or annex II, the Council shall, after consultation with such Contracting Party, establish, by special vote, a basic export tonnage or export entitlement for it which shall be deemed to be listed in annex I or annex II, as appropriate. If such Contracting Party is listed in annex I or annex II, its basic export tonnage or export entitlement, as the case may be, shall be as specified therein.

3. Any Contracting Party which desires to exercise its rights under article 4 in respect of any of the territories for whose international relations it is for the time being ultimately responsible may do so by making a notification to that effect to the Secretary-General of the United Nations, either at the time of the deposit of its instrument of ratification, acceptance, approval or accession, or at any later time. If the territory which becomes a separate Member is an exporting Member and is not listed in annex I or annex II, the Council, after consultation with such Member, shall establish, by special vote, a basic export tonnage or export entitlement for it which shall be deemed to be listed in annex I or annex II, as appropriate. If such territory is listed in annex I or annex II, its basic export tonnage or export entitlement, as the case may be, shall be as specified therein.

4. Any Contracting Party which has made a notification under subparagraph 1 (a) or (b) of this article may, at any time thereafter by notification to the Secretary-General of the United Nations, declare in accordance with the wishes of the territory that this Agreement shall cease to extend to the territory named in the notification, and this Agreement shall cease to extend to such territory from the date of such notification.

5. A Contracting Party which has made a notification under subparagraph 1 (a) or (b) of this article shall remain ultimately responsible for the performance of obligations under this Agreement by territories which in accordance with the provisions of this article and of article 4 are separate Members of the Organization, unless and until such territories make a notification under paragraph 2 of this article.

*Article 78**Reservations*

1. No reservations other than those mentioned in paragraphs 2, 3 and 4 of this article may be made with regard to any of the provisions of this Agreement.

2. Any Government which was a Party to the International Sugar Agreement, 1973, as extended, with one or more reservations to the International Sugar Agreement, 1968, or to the International Sugar Agreement, 1973, as extended, may, on signature, ratification, acceptance, approval of, or accession to this Agreement, make reservations similar in terms or in effect to those previous reservations.

3. Any Government entitled to become a Party to this Agreement may, on signature, ratification, acceptance, approval or accession, make reservations which do not affect the economic functioning of this Agreement. Any dispute as to whether a particular reservation comes within this paragraph shall be settled in accordance with the procedure in article 70.

4. In any other instance where reservations are made, the Council shall examine them and decide, by special vote, whether they are to be accepted and, if so, under what conditions. Such reservations shall become effective only after the Council has taken a decision on the matter. Such reservations shall be deposited with the Secretary-General of the United Nations upon notification of the decision of the Council.

*Article 79**Withdrawal*

1. Any Member may withdraw from this Agreement at any time after the entry into force of this Agreement by giving written notice of withdrawal to the Secretary-General of the United Nations. The Member shall simultaneously inform the Council of the action it has taken.

2. Withdrawal under this article shall be effective 30 days after the receipt of the notice by the Secretary-General of the United Nations.

SCHEDULE—continued

*Article 80**Exclusion*

If the Council finds that any Member is in breach of its obligations under this Agreement and decides further that such failure significantly impairs the operation of this Agreement, it may, by special vote, exclude such Member from the Organization. The Council shall immediately notify the Secretary-General of the United Nations of any such decision. Ninety days after the date of the Council's decision, that Member shall cease to be a Member of the Organization.

*Article 81**Settlement of accounts with withdrawing or excluded Members*

1. 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. Such Member shall be bound to pay any amounts due from it to the Organization at the time the withdrawal or exclusion becomes effective, and shall be bound to repay to the Fund established under article 49 any loans which had been made to such withdrawing or excluded Member; provided, however, that in the case of a Member which is unable to accept an amendment and consequently ceases to participate in the Organization under the provisions of article 82, paragraph 2, the Council may determine any settlement of accounts which it finds equitable.

2. A Member which has withdrawn or been excluded from, or has otherwise ceased to participate in, the Organization shall not be entitled to any share of the proceeds of liquidation or the other assets of the Organization, nor to any share of the assets of the Fund established under article 49; nor shall it be burdened with any part of the deficit, if any, of the Organization or the Fund upon termination of this agreement.

*Article 82**Amendment*

1. The Council may, by special vote, recommend an amendment of this Agreement to the Parties. The Council may fix a time after which each Party shall notify the Secretary-General of the United Nations of its acceptance of the amendment. The amendment shall become effective 100 days after the Secretary-General of the United Nations has received notifications of acceptance from Parties holding at least 850 of the total votes of exporting Members and representing at least three quarters of those Members and from Parties holding at least 800 of the total votes of importing Members and representing at least three quarters of those Members, or on such later date as the Council may have determined by special vote. The Council may fix a time within which each Party shall notify the Secretary-General of the United Nations of its acceptance of the amendment and, if the amendment has not become effective by such time, it shall be considered withdrawn. The Council shall provide the Secretary-General of the United Nations with the information necessary to determine whether the notifications of acceptance received are sufficient to make the amendment effective.

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 such Member has satisfied the Council that acceptance could not be secured in time owing to difficulties in completing its constitutional procedures, and the Council decides to extend for such Member the period fixed for acceptance. Such Member shall not be bound by the amendment before it has notified its acceptance thereof.

*Article 83**Duration, extension and termination*

1. This Agreement shall remain in force until the end of the fifth quota year after its entry into force, unless extended under paragraph 2 of this article or terminated earlier under paragraph 3 of this article.

SCHEDULE—continued

2. Before the end of the fifth quota year, the Council may, by special vote, extend this Agreement for a period not exceeding two quota years. The Council shall notify the Secretary-General of the United Nations of any such extension. Notwithstanding the provisions of article 79, paragraph 2, a Member which does not wish to participate in this Agreement as extended under this article may withdraw from this Agreement at the end of the fifth quota year by giving written notice of withdrawal to the Secretary-General of the United Nations. Such Member shall inform the Council accordingly.

3. The Council may at any time decide, by special vote, to terminate this Agreement with effect from such date and subject to such conditions as it may determine. In that event the Council shall continue in being for such time as may be required to carry out the liquidation of the Organization and shall have such powers and exercise such functions as may be necessary for the purposes.

Article 84

Transitional measures

1. Where in accordance with the International Sugar Agreement, 1973, as extended, the consequences of anything done, to be done or omitted to be done would, for the purposes of the operation of that Agreement, have taken effect in a subsequent year, those consequences shall have the same effect under this Agreement as if the provision of the 1973 Agreement, as extended, had continued in effect for those purposes.

2. Notwithstanding the provisions of article 40, paragraph 1, and of paragraph 1 of this article, the global quota for the quota year 1978 shall be established by the Council at its first session in 1978. Furthermore, the administrative budget for 1978 shall be provisionally approved by the Council under the International Sugar Agreement, 1973, as extended, at its last regular session in 1977, subject to confirmation by the Council under this Agreement at its first session in 1978.

Article 85

Authentic texts of this Agreement

The texts of this Agreement in the Chinese, English, French, Russian and Spanish languages shall all be equally authentic. The originals shall be deposited in the archives of the United Nations.

IN WITNESS WHEREOF the undersigned, having been duly authorized to this effect by their respective Governments, have signed this Agreement on the dates appearing opposite their signatures.

ANNEX I

BASIC EXPORT TONNAGES AS ESTABLISHED UNDER ARTICLE 34,
PARAGRAPH 1

	'000 tonnes r.v.
Argentina	450
Australia	2,350
Austria	80
Bolivia	90
Brazil	2,350
Colombia	75
Costa Rica	105
Cuba	2,500
Czechoslovakia	175
Dominican Republic	1,100
Ecuador	80
El Salvador	145
Fiji	125
Guatemala	300
Guyana	145
Jamaica	130
Trinidad and Tobago	85

SCHEDULE—continued

	'000 tonnes r.v.
India	825
Maritius	175
Mexico	75
Mozambique	100
Nicaragua	125
Panama	90
Peru	350
Philippines	1,400
Poland	300
South Africa	875
Swaziland	105
Thailand	1,200

ANNEX II

EXPORTING COUNTRIES AND TERRITORIES WITH AN ANNUAL EXPORT
ENTITLEMENT OF 70,000 TONNES

Bangladesh
 Barbados
 Belize
 St. Kitts-Nevis-Anguilla
 Congo
 Ethiopia
 Haiti
 Honduras
 Hungary
 Indonesia
 Madagascar
 Malawi
 Paraguay
 Romania
 Sudan
 Turkey
 Uganda
 United Republic of Cameroon
 United Republic of Tanzania
 Uruguay
 Venezuela
 Zambia

ANNEX III

1. For the purposes of this Agreement, the provisions relating to developing exporting Members shall apply to all exporting Members in:

- (a) Latin America, including the Greater Caribbean area;
- (b) Africa, except South Africa;
- (c) Asia; and
- (d) Oceania, except Australia;

and to Romania.

2. The Members to which the provisions of this Agreement relating to developing importing Members shall apply shall be determined by the Council in the light of the importers' membership of this Agreement.

SCHEDULE—continued

ANNEX IV

LEAST DEVELOPED COUNTRIES AS DEFINED BY THE UNITED NATIONS,
AS AT 7 OCTOBER 1977

Afghanistan
 Bangladesh
 Benin
 Bhutan
 Botswana
 Burundi
 Central African Empire
 Chad
 Democratic Yemen
 Ethiopia
 Gambia
 Guinea
 Haiti
 Lao People's Democratic Republic
 Lesotho
 Malawi
 Maldives
 Mali
 Nepal
 Niger
 Rwanda
 Somalia
 Sudan
 Uganda
 United Republic of Tanzania
 Upper Volta
 Western Samoa
 Yemen

ANNEX V

LISTS OF EXPORTING AND IMPORTING COUNTRIES AND TERRITORIES
AND ALLOCATION OF VOTES FOR THE PURPOSE OF ARTICLE 75

EXPORTERS

Argentina	24
Australia	81
Austria	6
Bangladesh	5
Barbados	5
Belize	5
Guyana	7
Jamaica	7
St. Kitts-Nevis-Anguilla	5
Trinidad and Tobago	5
Bolivia	5
Brazil	112
Colombia	11
Congo	5
Costa Rica	5
Cuba	118
Czechoslovakia	11
Dominican Republic	36
Ecuador	5
El Salvador	6
Ethiopia	5

SCHEDULE—continued

European Economic Community	124
Fiji	6
Guatemala	11
Haiti	5
Honduras	5
Hungary	5
India	63
Indonesia	10
Madagascar	5
Malawi	5
Mauritius	12
Mexico	27
Mozambique	5
Nicaragua	5
Pakistan	6
Panama	5
Paraguay	5
Peru	17
Philippines	58
Poland	22
Romania	5
South Africa	38
Sudan	5
Swaziland	5
Thailand	39
Turkey	8
Uganda	5
United Republic of Cameroon	5
United Republic of Tanzania	5
Uruguay	5
Venezuela	5
Zambia	5
Total	1,000

IMPORTERS

Algeria	27
Bulgaria	12
Canada	66
Chile	9
Egypt	12
Finland	9
German Democratic Republic	5
Ghana	5
Iraq	25
Israel	11
Ivory Coast	5
Japan	184
Kenya	5
Libyan Arab Jamahiriya	8
Malaysia	23
Morocco	19
New Zealand	12
Nigeria	10
Norway	10
Portugal	21
Republic of Korea	16
Singapore	5
Somalia	5
Spain	24
Sri Lanka	5

SCHEDULE—continued

Sweden	6
Switzerland	14
Syrian Arab Republic	13
Tunisia	11
Union of Soviet Socialist Republics	105
United States of America	297
Upper Volta	5
Yugoslavia	11
Zaire	5
Total	<u>1,000</u>

(Here follow signatures on behalf of parties to the Agreement, including Australia.)

NOTE

1. Act No. 26, 1978; assented to 7 June 1978.