INTERNATIONAL SUGAR AGREEMENT, 1973

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Note: The Agreement entered into force with respect to the Philippines, October 15,1974,

Reference: This Agreement is also published in XII DFA TS No. 1, p. 47.

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INTERNATIONAL SUGAR AGREEMENT, 1973

CHAPTER I - OBJECTIVES

ARTICLE 1

OBJECTIVES

The objectives of this International Sugar Agreement (hereinafter referred to as the Agreement) are to further international cooperation in sugar matters and to provide a framework for the preparation of negotiations of an agreement having objectives similar to the objectives of the International Sugar Agreement, 1968, which took into account the recommendations contained in the Final Act of the first session of the United Nations Conference on Trade and Development (hereinafter referred to as UNCTAD) and which were 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 maintain a stable price for sugar which will be reasonably remunerative to producers, but which will not encourage further expansion of production in developed countries;

(c) to provide adequate supplies of sugar to meet the requirements of importing countries at fair and reasonable prices;

(d) to increase sugar consumption and in particular to promote measures to encourage consumption in countries where consumption per caput is low;

(e) to bring world production and consumption of sugar into closer balance; .

(f) to facilitate the coordination 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 observe closely developments in the use of any form of substitutes for sugar, including cyclamates and other artificial sweeteners; and

(i) to further international cooperation in sugar questions.

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CHAPTER II - DEFINITIONS

ARTICLE 2

DEFINITIONS

For the purposes of the Agreement:

1. "Organization" means The International Sugar Organization referred to in Article 3;

2. "Council" means The International Sugar Council established by Article 3;

3. "Member" means

(a) a Contracting Party to the Agreement, other than a Contracting Party with a notification under paragraph 1 (b) of Article 38 currently in effect, or

(b) a territory or group of territories in respect of which a notification has been made under paragraph 3 of Article 38;

4. "exporting Member" means any Member which is listed as such in Annex A of the Agreement, or which is given the status of an exporting Member upon becoming a Contracting Party to the Agreement;

5. "importing Member" means any Member which is listed as such in Annex B of the Agreement, or which is given the status of an importing Member upon becoming a Contracting Party to the Agreement.

6. "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.

7. "distributed simple majority vote" means a vote cast by at least half of the number of exporting Members present and voting and by at least half of the number importing Members present and voting, and consisting of more than half of the total votes of Members in each category present and voting;

8. "financial year" means the calendar year;

9. "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 does hot include final molasses or low grade types of non-centrifugal sugar produced by primitive methods or sugar destined for use other than human consumption as food;

10. "entry into force" is to be read as meaning the date on which the Agreement enters into force provisionally or definitely, as provided for in Article 36;

11. any reference in the Agreement to a "Government invited to the United Nations Sugar Conference, 1973" shall be construed as including a reference to the European Economic Community (hereinafter referred to as the EEC). Accordingly any reference in the Agreement to "signature of the 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 signature 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.

CHAPTER III - THE INTERNATIONAL SUGAR ORGANIZATION ITS MEMBERSHIP AND ADMINISTRATION

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ARTICLE 3

CONTINUATION, HEADQUARTERS AND STRUCTURE OF THE INTERNATIONAL SUGAR ORGANIZATION

1. The International Sugar Organization established under the International Sugar Agreement, 1968, 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.

ARTICLE 4

MEMBERSHIP OF THE ORGANIZATION

1. Each Contracting Party shall constitute a single Member of the Organization, except as otherwise provided in paragraphs 2 or 3 of this Article. Multilateral -- International Sugar Agreement -- 13 October 1973

2. (a) When a Contracting Party makes a notification under paragraph 1 (a) of Article 38 declaring that the Agreement shall extend to a developing territory or territories which wish to participate in the Agreement, there may be, with the express consent and approval of those concerned, either:

(i) joint membership for that Contracting Party together with these territories, or

(ii) when that Contracting Party has made a notification under paragraph 3 of Article 38, separate membership, singly, all together or in groups for the territories that would individually constitute an importing Member.

(b) When a Contracting Party makes a notification under paragraph 1 (b) and a notification under paragraph 3 of Article 38 There shall be separate membership as set out in sub- Paragraph (a) (ii) above.

3. A Contracting Party which has made a notification under paragraph 1(b) of Article 38 and has not withdrawn that notification shall not be a Member of the Organization.

ARTICLE 5

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 6

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 the Agreement. ..

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2. The Council shall adopt by special vote such rules and regulations as are necessary to carry out the provisions of the Agreement and are consistent therewith, including Rules of Procedure for the Council and its committees 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 the 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 7

CHAIRMAN AND VICE-CHAIRMAN OF THE COUNCIL

1. For each calendar 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 calendar year between the two categories of Members; provided, however, that this shall not prevent the reelection under exceptional circumstances of the Chairman or Vice-Chairman or both when the Council so decides by special vote. In the case of such reelection 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 8

SESSIONS OF THE COUNCIL

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

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

(a) any five Members; or

(b) Members having at least 250 votes; or

(c) the Executive Committee.

3. Notice of sessions shall be given to Members at least thirty days in advance, except in case of emergency when such notice shall be given at least ten days in advance, and except where the provisions of the 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 its headquarters, that Member shall pay the additional costs involved.

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ARTICLE 9

VOTES

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

2. No Member shall hold more than 200 votes or less than 5 votes.

3. There shall be no fractional vote.

4. The total 1,000 votes of exporting Members shall be distributed among them pro-rata to the weighted average, in each case, of (a) their net free market exports, (b) their total net exports and (c) their total production. The figures to be used for that purpose shall be, for each factor, the highest figure in any year in the period 1968 to 1972 inclusive. In calculating the weighted average for each exporting Member, a weight of 50 per cent shall be allocated to the first factor and a weight of 25 per cent to each of the other two factors.

5. The total of 1,000 votes of the importing Members shall be distributed among them on the following bases (the statistics to be used shall be those of the calendar year 1972):

(a) 700 votes on the basis of each Member's share in net imports from the free market; and,

(b) 300 votes on the basis of each Member's share in total special arrangement imports.

6. The Council shall, taking into account paragraph 3 of this Article, establish in the rules and regulations described in Article 6 appropriate procedures to ensure that no Member receives more than the maximum number of votes or less than the minimum number of votes permitted under this Article.

7. At the beginning of each calendar year, the Council shall, on the basis of the formulae referred to in paragraphs 4 and 5 of this Article, establish the distribution of votes within each category of Members which shall remain in force during that calendar year, except in so far as is provided in paragraph 8 of this Article.

8. Whenever the membership of the Organization changes or when any Member is suspended from its voting rights or recovers its voting rights under any provision of the Agreement, the Council shall re-distribute the total votes within each category of Members on the basis of the formulae referred to in paragraph 4 and 5 of this Article.

ARTICLE 10

VOTING PROCEDURES OF THE COUNCIL

1. Each Member shall be entitled to cast the number of votes it holds and cannot divide its votes. It may, however, cast differently from such votes any votes which it is authorized to cast under paragraph 2 of this Article.

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.

ARTICLE 11

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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 the 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 paragraph 2 of Article 10 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. Members undertake to accept as binding all decisions of the Council under the provisions of the Agreement.

ARTICLE 12

COOPERATIONS WITH OTHER ORGANIZATIONS

1. The Council shall make whatever arrangements are appropriate for consultation or cooperation with the United Nations and its organs, in particular UNCTAD, and with the Food and Agriculture Organization and such other Specialized Agencies of the United Nations and inter-governmental organizations as may be appropriated.

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 13

ADMISSION OF OBSERVERS

1. The Council may invite any non-Member that is a Member of the United Nations, of any of its Specialized Agencies or of the International Atomic Energy Agency to attend any of its meetings as an Observer.

2. The Council may also invite any of the organizations referred to in paragraph 1 of Article 12 to attend any of its meetings as an Observer.

ARTICLE 14

COMPOSITION OF THE EXECUTIVE COMMITTEE

1. The Executive Committee shall consist of eight exporting Members and eight importing Members, who shall be elected for each calendar year in accordance with Article 15 and may be reelected.

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 calendar year. He shall not have the right to vote and may be reelected.

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, that Member shall pay the additional costs involved.

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ARTICLE 15

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 the 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 9 for a single candidate. A Member may cast for another candidate any votes which it exercises pursuant to paragraph 2 of Article 10.

3. The eight candidates receiving the largest number of votes shall be elected; however, no candidate shall be elected on the first ballot unless it receives at least 70 votes.

4. If less than eight 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 eight 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 299 for any member elected.

7. If the votes deemed received by an elected member would otherwise exceed 299 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 299.

8. If a Member of the Executive Committee is suspended from the exercise of its voting rights under any of the relevant provisions of the Agreement, each member which has voted for it or assigned its votes to it in accordance with the provisions of 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 the provisions of paragraph 6 of this Article.

9. 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 calendar 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 16

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DELEGATION OF POWERS BY THE COUNCIL TO THE EXECUTIVE COMMITTEE

1. The Council, by special vote, may 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 paragraph 2 of Article 3;

(b) approval of the administrative budget and assessment of contributions under Article 22;

(c) decision of disputes under Article 29;

(d) suspension of voting and other rights of a Member under paragraph 3 of Article 30;

(e) request to the Secretary-General of UNCTAD under Article 31;

(f) exclusion of a Member from the Organization under Article 40;

(g) extension of the Agreement under Article 42;

(h) recommendation of amendments under Article 43.

2. The Council may at any time revoke any delegation of powers to the Executive Committee.

ARTICLE 17

VOTING PROCEDURES 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 the provisions of Article 15, 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 shall prescribe in its Rules of Procedure, against any decision of the Executive Committee.

ARTICLE 18

QUORUM FOR THE COUNCIL AND THE EXECUTIVE COMMITTEE

1. The quorum for any meeting of the Council shall be the presence of more than half of all exporting Members of the Organization and more than half of all importing Members of the Organization, 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 consecutive 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 of the Organization and more than half of all importing Members of the Organization, the Members thus present representing more than half of the total votes of all Members in their respective categories. Representation in accordance with paragraph 2 of Article 10 shall be considered as presence.

2. 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.

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ARTICLE 19

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 intergovernmental organizations.

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 the 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 the 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 IV - PRIVILEGES AND IMMUNITIES

ARTICLE 20

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 nations; 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.

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(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.

CHAPTER V - FINANCE

ARTICLE 21

FINANCE

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 the agreement shall be met by annual contributions from Members, assessed in accordance with Article 22. 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 the Agreement.

ARTICLE 22

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

3. The initial contribution of any Member joining the Organization after the entry into force of the 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.

4. If the Agreement comes into force more than eight months before the beginning of the first full financial year of the Organization, 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.

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ARTICLE 23

PAYMENT OF CONTRIBUTIONS

1. Members undertake, in accordance with their respective constitutional procedures, to pay their contributions to the administrative budget for each financial year. Contributions to the administrative budget for each financial year shall be payable in freely convertible currency and shall become due on the first day of that financial year; contributions of Members in respect of the calendar year in which they join the Organization shall be due on the date on which they became 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 the Agreement, unless the Council so decides by special votes. It shall remain liable to pay its contribution and to meet any other of its financial obligations under the Agreement.

ARTICLE 24

AUDIT AND PUBLICATIONS OF ACCOUNT

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 VI

GENERAL UNDERTAKINGS BY MEMBERS

ARTICLE 25

UNDERTAKINGS OF MEMBERS

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

2. Members undertake to make available and supply all such statistics and information as the Rules of Procedure may prescribe as necessary to enable the Organization to discharge its functions under the Agreement.

ARTICLE 26

LABOUR STANDARS

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

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CHAPTER VII

ANNUAL REVIEW AND MEASURES TO ENCOURAGE CONSUMPTION

ARTICLE 27

ANNUAL REVIEW

1. The Council shall each calendar year review developments in the sugar market and their effects on the economies of individual countries.

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

ARTICLE 28

MEASURES TO ENCOURAGE CONSUMPTION

1. Bearing in mind the relevant objectives of the Final Act of the first session of UNCTAD, 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. In so doing, each Member shall have 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 such matters as:

(a) the effects on sugar consumption of the use of any form of substitutes for sugar, including other sweeteners;

(b) the relative tax treatment of sugar and other sweeteners;

(c) the effects of (i) taxation and restrictive measures, (ii) economic conditions and in particular balance of payments difficulties and (iii) climatic and other conditions, on the consumption of sugar in different countries;

(d) means of promoting consumption, particularly in countries where consumption per caput is low;

(e) co-operation with agencies concerned with the expansion of consumption of sugar and other related foodstuffs;

(f) research into new uses of sugar, its by-products and the plants from which it is derived, and shall submit to the Council such recommendations as it deems desirable for appropriate action by Members or by the Council.

CHAPTER VIII - DISPUTES AND COMPLAINTS

ARTICLE 29

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DISPUTE

1. Any dispute concerning the interpretation or application of the 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 paragraph 3 of this Article on the issue in dispute before giving its decision.

3. (a) Unless the Council unanimously agrees otherwise, 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) 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, after considering all the relevant information, shall decide the dispute by special vote.

ARTICLE 30

ACTION BY THE COUNCIL ON COUNCIL ON COMPLAINTS AND ON NON-FULFILLMENT OF OBLIGATIONS BY MEMBERS

1. Any complaint that any Member has failed to fulfill its obligations under the 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 make a decision on the matter.

2. Any finding by the Council that a Member is in breach of its obligations under the Agreement shall be made by a distributed simple majority vote and shall specify the nature of the breach.

3. Whenever the Council, whether as the result of a complaint or otherwise, finds that a Member has committed a breach of the Agreement it may, without prejudice to such other measures as are specifically provided for in other Articles of the 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 the Agreement,

(c) take action under Article 40.

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CHAPTER IX - PREPARATIONS FOR A NEW AGREEMENT

ARTICLE 31

PREPARATIONS FOR A NEW AGREEMENT

1. The Council shall initiate an early study of the bases and framework of a new international sugar agreement and shall make a report to the Members not later than 31 December 1974. The report shall contain such recommendations as the Council deems appropriate.

2. On the basis of the report referred to in paragraph 1 of this Article, or of any subsequent report based on a similar study by the Council, the Council shall, as soon as it considers appropriate, request the Secretary-General of UNCTAD to convene a negotiating conference.

CHAPTER X - FINAL PROVISIONS

ARTICLE 32

SIGNATURE

The Agreement shall be open for signature at United Nations Headquarters until and including 24 December 1973 by any Government invited to the United Nations Sugar Conference, 1973.

ARTICLE 33

RATIFICATION

The Agreement shall be subject to ratification, acceptance or approval by the signatory Governments in accordance with their respective constitutional procedures. Except as provided in Article 34, instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations not later than 31 December 1973.

ARTICLE 34

NOTIFICATION BY GOVERNMENTS

1. If a signatory Government is unable to comply with the requirements of Article 33 within the time-limit specified in that Article, it may notify the Secretary-General of the United Nations, not later than 31 December 1973, that it is undertaking to seek ratification, acceptance or approval in accordance with the constitutional procedures, required as rapidly as possible and in any case not later than 15 October 1974. Any Government for which conditions of accession have been established by the Council in agreement with that Government may also notify the Secretary-General of the United Nations that it is undertaking to satisfy the constitutional procedures required to accede to the Agreement as rapidly as possible and at least within a six-month period of such conditions being established.

2. Any Government which has given a notification in accordance with paragraph 1 of this Article may, if the Council is satisfied that it cannot deposit its instrument of ratification, acceptance, approval or accession within the time-limit referred to in that paragraph which is relevant to that Government be permitted to deposit such instrument by a later specified date, provided that in the case of a signatory Government such date shall not be

later than 15 April 1975.

3. Any Government which has given a notification in accordance with paragraph 1 shall have the status of an Observer until either:

(a) it deposits an instrument of ratification, acceptance, approval or accession;

(b) the time-limit for its deposit of such an instrument has elapsed; or

(c) it indicates that it will apply the Agreement provisionally, whichever occurs earliest.

ARTICLE 35

INDICATION TO APPLY THE AGREEMENT PROVISIONALLY

1. Any Government which gives a notification pursuant to Article 34 may also indicate in its notification, or at any time thereafter, that it will apply the Agreement provisionally.

2. During any period the Agreement is in force, either provisionally or definitely, a Government indicating that it will apply the Agreement provisionally shall be a provisional Member of the Organization until it deposits its instrument of ratification, acceptance, approval or accession, and thus becomes a Contracting Party to the Agreement, or the time limit for the deposit of its instrument in accordance with Article 34 has elapsed, whichever is earlier.

ARTICLE 36

ENTRY INTO FORCE

1. The Agreement shall enter definitively into force on 1 January 1974, or on any date within the following six months, if by that date Governments, representing at least 50 per cent of the total net exports set out in Annex A, and Governments, representing at least 40 per cent of the total net imports set out in Annex B, have deposited their instruments of ratification, acceptance or approval with the Secretary-General of the United Nations. It shall also enter definitively into force 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. The Agreement shall enter provisionally into force on 1 January 1974, or on any date within the following six months, if by that date Governments satisfying the percentage requirements of paragraph 1 of this Article have deposited their instruments of ratification, acceptance or approval, or have indicated that they will apply the Agreement provisionally.

3. On 1 January 1974, or on any date within the following twelve months and at the end of each subsequent six-month period during which the 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 the Agreement definitively into force among themselves in whole or in part. These Governments may also decide that the Agreement shall enter provisionally into force, or continue provisionally in force, or lapse.

ARTICLE 37

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ACCESSION

Any Government invited to the United Nations Sugar Conference, 1973, and any other Government that is a Member of the United Nations, of any of its Specialized Agencies or of the International Atomic Energy Agency may accede to the Agreement upon conditions that shall be established by the Council in agreement with Government seeking accession. Accession shall be effected by the deposit of an instrument of accession with the Secretary-General of the United Nations.

ARTICLE 38

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 the 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 the 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 the Agreement, and the Agreement shall extend to the territories named therein from the date of such notification if the Agreement has already entered into force for that Government or, if the notification has been made prior thereto, on the date on which the Agreement enters into force for that Government. Any Government which has made a notification under paragraph 1 (b) may subsequently withdraw that notification and may make a notification or notifications to the Secretary-General of the United Nations under paragraph 1 (a).

2. When a territory to which the Agreement has been extended under paragraph 1 of this Article subsequently assumes responsibility for its international relations the Government of that territory may, within ninety days after the assumption of responsibility for its international relation, declare by notification to the Secretary-General of the United Nations that it has assumed the rights and obligations of a Contracting Party to the Agreement. It shall, as from the date of such notification, become a Party to the Agreement.

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.

4. Any Contracting Party which has made a notification under paragraph 1 (a) or 1 (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 the Agreement shall cease to extend the territory named in the notification, and the Agreement shall cease to extend to such territory from the date of such notification.

5. A Contracting Party which has made a notification under paragraph 1 (a) or 1 (b) of this Article shall remain ultimately responsible for the performance of obligations under the 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.

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ARTICLE 39

WITHDRAWAL

1. Any Member may withdraw from the Agreement at any time after the first year it is in force by giving written notice of withdrawal to the Secretary-General of the United Nations.

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

ARTICLE 40

EXCLUSION

If the Council finds that any Member is in breach of its obligations under the Agreement and decides further that such failure significantly impairs the operation of the 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 and, if such Member is a Contracting Party, a Party to the Agreement.

ARTICLE 41

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, and such Member shall remain bound to pay any amounts due from it to the Organization at the time the withdrawal or exclusion becomes effective; provided, however, that in the case of a Contracting Party which is unable to accept an amendment and consequently ceases to participate in the Agreement under the provisions of paragraph 2 of Article 43, 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 Agreement shall not be entitled to any share of the proceeds of liquidation or the other assets of the Organization; nor shall it be burdened with any part of the deficit, if any, of the Organization upon termination of the Agreement.

ARTICLE 42

DURATION AND EXTENSION

1. The present Agreement shall remain in force until and including 31 December 1975.

2. However, if a new international sugar agreement is negotiated as envisaged by Article 31 and enters into force before that date, the present Agreement shall terminate upon entry into force of the new agreement.

3. Notwithstanding the provisions of paragraph 1 of this Article, the Council may, after 31 December 1974, extend the present Agreement until and including 31 December 1976 by special vote. The Council may subsequently further extend the Agreement on a year to year basis. Notwithstanding the provisions of Article 11, extensions by the Council under this Article will be dealt with by each Member in accordance with its constitutional procedures.

4. If a new international sugar agreement is negotiated as envisaged by Article 31 and enters into force during any period of extension, the present Agreement, as extended, shall terminate upon the entry into force

ARTICLE 43

AMENDMENT

1. The Council may, by special vote, recommend an amendment of the Agreement to the Contracting Parties. The Council may fix a time after which each Contracting Party shall notify the Secretary-General of the United Nations of its acceptance of the amendment. The amendment shall become effective one hundred days after the Secretary-General of the United Nations has received notifications of acceptance from Contracting Parties holding at least 850 of the total votes of exporting Members and representing at least three-quarters of those Members and from Contracting 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 by special vote may have determined. The Council may fix a time within which each Contracting 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 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 the Organization. If, however, notification is made to the Secretary-General of the United Nations on behalf of such Member before the effective date of the amendment that its acceptance cannot be secured in time because of difficulties in completing the required constitutional procedures, but that the Member undertakes to apply the amendment provisionally, that Member shall continue to participate in the Organization. Until the Secretary-General of the United Nations has been notified that such Member accepts the amendment, its shall be provisionally bound by that amendment.

ARTICLE 44

NOTIFICATION BY THE SECRETARY-GENERAL OF THE UNITED NATIONS

The Secretary-General of the United Nations shall notify all States

Members of the United Nations, of any of its Specialized Agencies or of the International Atomic Energy Agency of each signature, of each deposit of an instrument of ratification acceptance, approval or accession, of each notification under Article 34, and of each indication under Article 35, and of the dates on which the Agreement comes provisionally or definitively into force. The Secretary-General shall notify all Contracting Parties of each notification under Article 38, of each notice of withdrawal under Article 39, of each exclusion under Article 40, of the date on which an amendment becomes effective or is considered withdrawn under paragraph 1 of Article 43, and of any cessation of participation in the Organization under paragraph 2 of Article 43.

IN WITNESS WHEREOF, the undersigned, having been duly this Agreement on the dates appearing opposite their signatures.

The texts of this Agreement in the Chinese, English, French, Russian and Spanish languages shall all be equally authentic. The original shall be deposited in the archives of the United Nations, and the Secretary-General shall transmit certified copies thereof to each signatory or acceding Government.

ANNEX A

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Classification for the purposes of Article 36

Exporters

Net Exports

(1,000 M.T.)

Argentina

167

Australia

2,298

Bolivia

42

Brazil

2,638

Colombia

203

Congo

40

Costa Rica

105

Cuba

5,500

Czechoslovakia

123

Dominican Republic

1,141

Ecuador

96

El Salvador

134

Fiji

290

Guatemala

103

Honduras

12

Hungary

35

India

266

Indonesia

31

Madagascar

39

Malawi

1

Mauritius

650

Mexico

598

Nicaragua

120

Manama

38

Paraguay

13

Peru

481

Philippines

1,262

Poland

310

Romania

11

South Africa

1,045

Swaziland

189

Thailand

439

Uganda

25

Venezuela

160

West Indies

883

Barbados

(101)

Guyana

(320)

Jamaica

(279)

Trinidad and Tobago

(183)

TOTAL 19,504

ANNEX B

Classification for the purposes of Article 36

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Bulgaria

160

Canada

939

Chile

230

Finland

136

German Democratic Republic

145

Ghana

60

Iraq

245

Ivory Coast

72

Japan

2,744

Kenya

89

Korea, Rep. of

221

Lebanon

54

Malaysia

347

Malta

16

Morocco

185

New Zealand

155

Nigeria

118

Norway

168

Portugal

34

Singapore

108

Sweden

112

Switzerland

247

Syria

134

United States of America

4,960

USSR

1,860

Yugoslavia

295

European Economic Community[1]

380

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TOTAL 14,299

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[1] Without prejudice to status under the Agreement in the event of participation in it.

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