

COMMISSION OF THE EUROPEAN COMMUNITIES

COM(76) 115 final

Brussels, 31 March 1976

Recommendation for a
COUNCIL DECISION
on the notification of provisional application
by the European Economic Community of the
International Cocoa Agreement, 1975

(submitted to the Council by the Commission)

COM(76) 115 final

Commission Communication to the Council
relating to the International Cocoa Agreement,
1975

I. The United Nations Cocoa Conference, 1975

The International Cocoa Agreement, 1972, which expires on 30 September 1976, was the subject of fresh negotiations which led to the conclusion of the International Cocoa Agreement, 1975 (Geneva, 22 September - 20 October 1975).

The new Agreement -like its 1972 predecessor - is based on a dual intervention mechanism within a fixed range of prices: that is, export quotas and operations by a buffer stock of 250 000 tons of cocoa beans. The charging of a contribution on trade in the product in order to finance the buffer stock is maintained, as are the controls on the member countries' exports and imports which this entails. The regulation of imports from non-member countries and the possibility of suspending export quotas in the light of price levels are also retained in the new Agreement.

Many amendments have been made to these provisions, namely the substantial raising of the price range¹, new conditions for the review and revision of the prices, steps to simplify and render more flexible the quota machinery (which is adapted to market characteristics), the increased role of buffer stock operations particularly in the event of a fall in prices, and improved conditions of supply for consumer countries that are members of the Agreement. Moreover, the new three-year Agreement may be extended for two years without fresh negotiations. It is scheduled to enter into force on 1 October 1976.

It may be hoped that the economic provisions of the new Agreement will be more effective than those of the first Agreement. Because of the world market situation and the high prices of the product since 1973 the provisions relating to stabilization of the market have not yet

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¹ The minimum price, 23 US cents per pound under the 1972 Agreement (raised to 29.5 in 1974), has been fixed at 39 cents and the former maximum price of 32 cents (raised to 38.5 in 1974) has been fixed at 55 cents, which means that the range has been widened from 9 to 16 cents.

been able to function, but the system of financing the buffer stock means that large sums can be mobilized for purchases of cocoa by the stock. The funds which will be available when the first Agreement comes to the end of its three-year period on 30 September 1976 are estimated at \$ 85 million.

II. The role of the Community and the Member States in the negotiations

Since this is the only international agreement currently in force which embodies measures to control exports and imports, its application would have been impossible - from the standpoint of the common commercial policy - without the Community participating (which it did from the time the 1972 Agreement entered into force) as well as all the Member States.

Moreover, the Agreement being of a "mixed" nature, with the Community having jurisdiction in some matters and the Member States in others, the Council adopted on a proposal from the Commission in September 1975 provisions for the negotiation of the second Agreement, and these were successfully implemented in the course of the work:

- (i) the Community was allowed to participate automatically in the Conference (instead of in an observer capacity);
- (ii) the Community and the Member States were represented by ten delegations;
- (iii) the Commission representative was normally the spokesman on matters covered by the common commercial policy under Article 113 and on matters which were the subject of common action under Article 116;
- (iv) the negotiating directives, which were annexed to the Council Decision authorizing the Commission to negotiate on behalf of the Community in matters within the Community competence, were adhered to.

The Community was therefore able to play a major part in this Conference since, for the first time in the case of a mixed agreement, the whole of the negotiations were conducted at Community level, even

on the most difficult questions such as those concerning prices and the mechanisms for intervention by reference to price levels.

This result was made possible only by the spirit of cooperation and the will to succeed displayed by the ten delegations throughout the Conference. In this connection it will be recalled that the Community accounts for 40% of world imports (1972-74 average), followed by the United States with 23% and the USSR with 9%.

The United States, which is not a member of the 1972 Agreement, participated in the preparatory work and in the 1975 Conference, at which it belatedly put forward proposals for a simplified agreement based mainly on a buffer stock. Since the second Agreement was not concluded on this new basis, the United States regards it as unacceptable.

On the producer countries' side, one of the biggest producers (Ivory Coast) was unable to support the final compromise on price levels and the market intervention mechanisms; this is the first time an international product agreement has been concluded with one of the principal producer countries standing aside from the other developing countries. The fact is all the more remarkable in view of the existence of a Cocoa Producers' Alliance, comprising Brazil and the five main African producer countries (Ghana, Nigeria, Ivory Coast, Cameroon, Togo).

III. The entry into force of the Agreement: proposals by the Commission

The 1975 Agreement is open for signature until 31 August 1976 inclusive and is scheduled to enter into force provisionally or definitively on 1 October 1976, subject to the following conditions: five exporting countries accounting for at least 80% of the basic quotas and importing countries accounting for at least 70% of world imports must have deposited their instrument of ratification or have given notification by not later than 30 September 1976 that they will apply the Agreement provisionally.

On the exporting countries' side, if Ivory Coast were to stand by its intention not to sign or accept the new Agreement, the chances of the Agreement entering into force on 1 October 1976 would be seriously jeopardized in view of the conditions stated above, since Ivory Coast is the world's third largest producer (15.5% of the basic quotas).

As regards the importing countries, the situation is comparable to that under the 1972 Agreement; that is, if the United States does not participate, the entry into force of the Agreement would presuppose the participation of all the other principal importing countries, whose delegates to the Conference adopted the new Agreement provided it was accepted by all the principal exporting countries. For this reason, while acknowledging the uncertainties surrounding the new Agreement arising from Ivory Coast's position and pending the results of the discussions among the principal exporting countries, the Commission considers that it would be appropriate - particularly as 1976 will be marked by the fourth session of UNCTAD and the work of the Conference on International Economic Cooperation - that the Community and the Member States should not jeopardize the possible entry into force of the new Agreement and should make the necessary preparations to be able to complete the procedures within the period specified.

The Commission therefore recommends that the Council:

decide that the 1975 International Cocoa Agreement will be signed as soon as possible before 31 August 1976 on behalf of the European Economic Community, subject to conclusion of the Agreement;

adopt, in accordance with the text annexed hereto, a decision to the effect that the Community will notify the Secretary-General of the United Nations before 30 September 1976 that it will apply the agreement provisionally, as an importing member, when the Agreement enters into force in accordance with Article 69. The text of the Agreement will be annexed to the decision, which will be published in the Official Journal of the European Communities. This reference to Article 69 implies the participation of all the principal exporting countries and all the principal importing countries, except the United States.

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Even if one or more Member States were unable to complete these formalities within the period specified, it should still be possible for the Community to do so in order to avoid any break in continuity in the application of the rules of the Agreement covered by the common commercial policy in the event of the new Agreement entering into force on 1 October 1976¹. In this connection the Commission would point out that when the Council adopted the Decision on participation by the Community in the negotiation of the second Agreement, the Council drew attention to the special difficulties of one of the Member States and expressed the view that a solution should be worked out at Community level so that the new Agreement could be applied by all the Member States and the Community.

Lastly, in anticipation of the forthcoming meetings of the Executive Committee and the sessions of the International Cocoa Council to be held in March and July 1976, the Commission proposes that the Community and the Member States adopt an open and constructive attitude in case it should prove necessary, before 1 October 1976, to consider an alternative solution to the entry into force of the 1975 Agreement on that date; possible solutions could be the extension of the 1972 Agreement pursuant to Article 74(4) of that Agreement or a protocol maintaining the Agreement in force for a specified period.

¹ See Council Regulation (EEC) No 3135/73 of 9 November 1973 on the implementation of the economic and control rules of the International Cocoa Agreement, 1972 in OJ No L 324 of 24 November 1973, p. 20.

RECOMMENDATION FOR A COUNCIL DECISION

on the notification of provisional application by the
European Economic Community of the International Cocoa
Agreement, 1975

THE COUNCIL OF THE EUROPEAN COMMUNITIES,

Having regard to the Treaty establishing the European Economic
Community and in particular Article 113 thereof,

Having regard to the recommendation from the Commission,

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Whereas the Community is participating in the International Cocoa Agreement, 1972;

Whereas the Council has decided to sign before 31 August 1976 the International Cocoa Agreement, 1975 on behalf of the Community, subject to conclusion of the Agreement;

Whereas the Community should give **notice** that it will apply the Agreement provisionally pending completion of the internal procedures necessary for its conclusion,

HAS ADOPTED THIS DECISION:

Sole Article

1. In accordance with Article 68 of the International Cocoa Agreement, 1975, the European Economic Community will notify the Secretary-General of the United Nations before 30 September 1976 that it will apply the Agreement provisionally, as an importing member, when the Agreement enters into force in accordance with Article 69.

The text of the Agreement is annexed to this Decision.

2. The President of the Council is hereby authorized to designate the person empowered to give this notification¹.

¹ The date from which the Agreement will be applied provisionally will be published in the Official Journal of the European Communities.

Notification of provisional application

In accordance with Article 68 of the International Cocoa Agreement, 1975, the European Economic Community hereby gives notification of provisional application. In giving this notification the Community will consider itself provisionally an importing member of the above Agreement with all the rights and obligations arising therefrom when the Agreement enters into force in accordance with Article 69 and until the date on which the decision concluding the Agreement is deposited by the Council of the European Communities.