



TRINIDAD AND TOBAGO

No. 20—1961

[L.S.]

I ASSENT,

C. A. KELSICK
Governor's Deputy.

19th June, 1961.

AN ORDINANCE to establish a Cocoa Industry Board to regulate and control the purchase and sale of cocoa, and for matters incidental thereto.

[On Proclamation]

ENACTED by the Governor of Trinidad and Tobago with the advice and consent of the Legislative Council thereof.

1. (1) This Ordinance may be cited as the Cocoa Industry Ordinance, 1961.

Commence-
ment.

Enactment.

Short title and
commencement.

(2) This Ordinance shall come into operation on a day to be appointed by the Governor by Proclamation published in the *Royal Gazette*.

Interpretation.

2. (1) In this Ordinance—

- (a) "Board" means the Cocoa Industry Board established under section 3;
- (b) "buying agent" means a person licensed by the Board under paragraph (d) of subsection (2) of section 4 to purchase cocoa on behalf of the Board;
- (c) "chairman" means the chairman of the Board;
- (d) "cocoa" means fermented and dried fruit of the *theobroma cacao* and its allied species;
- (e) "Co-operative Society" means any society registered or deemed to be registered under the Co-operative Societies Ordinance;
- (f) "crop year" means the period from the first day of October in any year to the thirtieth day of September next following, both dates inclusive;
- (g) "export" means to take or cause to be taken out of the Territory;
- (h) "licensed exporter" means a person licensed by the Board under paragraph (e) of subsection (2) of section 4 to export cocoa;
- (i) "member" means a member of the Board;
- (j) "Minister" means the member of the Cabinet charged for the time being with the administration of the subject of agriculture;
- (k) "nominated member" means a member appointed upon the nomination of a person or body authorised under paragraphs (b), (c) and (d) of subsection (2) of section 3 to nominate a member;
- (l) "producer" means a person who grows in the Territory cocoa for sale;
- (m) "purchase" includes exchange or barter and any agreement or contract to purchase;
- (n) "registered producer" means a producer registered by the Board pursuant to the regulations;
- (o) "regulations" means regulations made under section 9;
- (p) "sale" includes exchange or barter and any agreement or contract to sell;

(q) "Territory" means the Territory of Trinidad and Tobago;

(r) "uncured cocoa" means cocoa that has not at any time been fermented and dried.

(2) A reference in this Ordinance to a section or schedule shall, unless the contrary intention appears, be read as a reference to a section or schedule of this Ordinance; and a reference in this Ordinance to a subsection, paragraph or subparagraph shall, unless the contrary intention appears, be read as a reference to a subsection, paragraph or subparagraph of the section, subsection or paragraph as the case may be, in which the reference occurs.

3. (1) There shall be established for the purposes of this Ordinance a body to be called the Cocoa Industry Board.

Establishment
and constitution
of the Board.

(2) The Board shall consist of the following twelve members appointed by the Minister—

(a) a member either of the Institute of Chartered Accountants or of the Association of Certified and Corporate Accountants, to be nominated by the Governor in Council, who shall be chairman;

(b) six producers, four of whom shall be appointed on the nomination of the Agricultural Society of Trinidad and Tobago (and of which four, one is the owner or occupier of less than twenty-five acres of land cultivated in cocoa, and another is or has been the holder of a permit to export cocoa); one of whom shall be appointed on the nomination of the Minister charged with the administration of Co-operatives, and one of whom shall be nominated by the Cocoa Planters' Association of Trinidad Limited;

(c) three persons representing the interest of exporters of cocoa to be nominated by licensed exporters; but in the case of appointments to be made initially for constituting the Board such persons shall be nominated by the persons mentioned in the First Schedule;

First Schedule.

(d) one person nominated by buying agents from among themselves; but in the case of appointments to be made initially for the purpose of constituting the Board the Minister may, in his discretion, appoint any person who is a licensed dealer under the Sale of Produce Ordinance;

Ch. 23. No. 18.

(e) an official from the Ministry of Agriculture, hereinafter referred to as the "official member".

(3) The appointment of every member shall be evidenced by an instrument in writing, and that instrument shall state the period of office of the member, which shall not exceed two years.

(4) Every member is eligible for re-appointment.

(5) If the chairman is granted leave of absence in accordance with subsection (9), or is unable to act, the Minister may appoint a person, whether or not that person is already a member of the Board, to act temporarily in the place of the chairman.

(6) If a nominated member is granted leave of absence in accordance with subsection (9), or is unable to act, the person by whom he was nominated may nominate a suitable person for appointment by the Minister and the Minister shall appoint that person to act temporarily in the place of the nominated member.

(7) A member of the Board other than the official member may resign his office by instrument in writing addressed to the Minister, and the resignation takes effect from the date of the receipt of the instrument.

(8) The Minister may at any time revoke the appointment of any member of the Board if he thinks it expedient so to do, but the appointment of a nominated member shall not be revoked without the approval of the person by whom he was nominated.

(9) The Minister may, on application of a member of the Board, grant the member leave of absence for any period not exceeding six months.

(10) The appointment, resignation, revocation of appointment or death of any member shall be notified in the *Royal Gazette*.

Functions
of Board.

4. (1) The Board shall secure the most favourable arrangements for the purchase, sale, handling, grading, exportation and marketing of cocoa for the benefit of the cocoa industry.

(2) In particular, and without prejudice to the generality of subsection (1), the Board may—

(a) grant permits, either generally or specially, to the Cocoa Planters' Association of Trinidad Limited to export cocoa grown on lands owned or occupied by producers who are members of the Association;

- (b) grant permits, either generally or specially, to any co-operative society to export, in accordance with co-operative principles, cocoa grown on lands owned or occupied by producers who are members of the society;
- (c) grant, subject to such terms and conditions as the Board may deem fit, to any producer who applies to the Board on or before the 30th day of November in any crop year, a permit to export during that crop year by himself or through an agent approved by the Board, cocoa that is the produce of lands owned or occupied by the producer;
- (d) grant, in respect of each crop year, to such persons as the Board may think fit, licences to purchase cocoa on behalf of the Board, and may require such persons, to transfer cocoa purchased by them to licensed exporters within such time as the Board may prescribe and in such manner and at such prices as the Board may direct;
- (e) grant, in respect of each crop year, to such persons as the Board may think fit, licences to export cocoa;
- (f) allocate quotas of cocoa that may be exported during any period by licensed exporters;
- (g) fix the prices at which cocoa or any grade of cocoa may be sold locally or in foreign markets;
- (h) do all matters necessary for and in connection with the preparation, grading and inspection of cocoa.

(3) A permit or a licence to export cocoa granted by the Board under this section does not authorise the exportation of cocoa that does not meet a standard of quality prescribed by the Board for export.

Cocoa to be exported must be of quality prescribed

(4) The Board shall publish weekly in a daily newspaper and in the *Royal Gazette* the world price of cocoa during the preceding week.

Board to publish world price.

5. (1) The Board is a body corporate having perpetual succession with power to purchase, lease or otherwise acquire, hold and dispose of land and other property of whatever kind.

Incorporation of Board.

(2) The Board shall have a common seal which shall be kept in the custody of the chairman or the secretary of the Board and may be affixed to instruments pursuant to resolutions of the Board and in the presence of the chairman, one other member and the secretary.

(3) The seal of the Board shall be authenticated by signature of the chairman and the secretary of the Board, and shall be officially and judicially noticed.

(4) All documents, other than those required by law to be under seal, made by, and all decisions of, the Board may be signified under the hand of the chairman or the secretary of the Board.

(5) The Board may sue and be sued in its corporate name and may for all purposes be described by such name; and service upon the Board of any notice, order or other document shall be executed by delivering it to, or by sending it by registered post addressed to the secretary of the Board at the office of the Board.

(6) The Board shall at all times have an office in a locality approved by the Minister, and shall state the full address of such office on every document issued by it.

(7) In the exercise of their powers and the performance of their duties under this Ordinance, the Board shall conform with any general or special directions of the Governor in Council.

Procedure
and meetings
of the Board.

6. (1) The Board shall meet at such times as may be necessary or expedient for the transaction of business, and such meetings shall be held at such place and at such time and on such days as the Board may determine.

(2) The Chairman may at any time call a special meeting of the Board and he shall call a special meeting within seven days of a requisition for that purpose addressed to him by any three members.

(3) The chairman shall preside at all meetings of the Board and in the case of his absence the members present and constituting a quorum shall elect one of their number to act as chairman of the meeting.

(4) At any meeting of the Board six members constitute a quorum.

(5) The decisions of the Board shall be by a majority of votes and, in addition to an original vote, in any case in which the voting is equal the chairman of the meeting shall have a casting vote.

(6) Minutes in proper form of all meetings shall be kept by the secretary and shall be confirmed by the chairman at a subsequent meeting so soon thereafter as may be practicable.

(7) Subject to this section the Board may regulate its own procedure.

Power to
appoint
Executive
Committee.

7. (1) Subject to this Ordinance, the Board may appoint a committee to be called the Executive Committee, and may delegate to the committee power and authority to carry out on their behalf such duties as the Board may determine.

(2) The committee appointed under this section shall consist of the manager, the secretary, and not less than two producers, and not more than two persons representing the interests of licensed exporters.

8. (1) Subject to this Ordinance, the Board may appoint and employ at such remuneration and on such terms and conditions as it thinks fit, a manager, a secretary and such other officers and servants as it deems necessary for the proper carrying out of the provisions of this Ordinance.

Appointment
of officers
and servants.

(2) The appointment of a manager shall be subject to the approval of the Minister.

(3) No post shall be created that will carry a salary in excess of four thousand eight hundred dollars per annum unless it is created with the prior approval of the Minister.

(4) With the approval of, and subject to such terms and conditions as may be imposed by the Minister of Finance, the Board may provide for the establishment and maintenance of a pensions scheme or a provident fund scheme for the benefit of the officers and servants of the Board, and in any such scheme different provisions may be made for different classes of officers or servants.

(5) The Governor may approve the transfer of an officer from the service of the Board to the service of the Government or from the service of the Government to the service of the Board; but in every such case—

(a) any pension, gratuity or other allowance that is ultimately granted shall be paid from the public funds of the Territory;

(b) the Board shall pay from its funds to the Government such contribution as may be provided for in rules made by the Governor in Council, and any such rules may make different provisions for different classes of cases.

9. (1) The Board may, with the approval of the Minister, make regulations—

Power to
make
regulations.

(a) providing for the registration of—

(i) all producers or any particular class of producers;

(ii) all marks used in connection with the exportation of cocoa;

- (b) providing for the keeping of any register pursuant to the provisions of paragraph (a) and the form of any such register and the procedure to be followed in relation to the registration of any person or mark required to be registered pursuant to the regulations and the fees to be paid in respect of such registration;
- (c) prescribing the forms of licences and permits to be granted under this Ordinance;
- (d) prescribing the grades and types of cocoa;
- (e) prescribing the prices at which cocoa may be purchased or sold, and different prices may be prescribed in respect of different grades of cocoa;
- (f) prescribing the records to be kept by licensed exporters, buying agents or by any person who is required to be registered pursuant to the regulations;
- (g) prescribing the returns to be made by licensed exporters, buying agents or by any person who is required to be registered pursuant to the regulations; and the time at which and the form in which any such returns are to be made and the particulars to be contained in such returns;
- (h) providing for the entry at all reasonable times during the hours of daylight by persons appointed by the Board upon land on which cocoa is grown or upon premises used for the storage, purchase, sale or export of cocoa and for the examination of any cocoa found on such premises and for the inspection of any records required to be kept pursuant to the regulations;
- (i) prescribing, subject to section 30, the commission to be paid to licensed exporters and buying agents for their services and the allowances that may be deducted from the sale of cocoa by licensed exporters for meeting their expenses;
- (j) prescribing anything that is required or authorised by this Ordinance to be prescribed;
- (k) generally for the exercise of its powers and duties under this Ordinance.

(2) Regulations made under this section may prescribe for any contravention thereof or any failure to comply therewith a penalty not exceeding five hundred dollars on summary conviction.

(3) All regulations shall be laid before the Legislative Council as soon as possible after they are made, and if the Legislative Council, within the period of forty days beginning with the day on which the regulations are laid before it, resolves that they be annulled, they are thenceforth void, but without prejudice to the validity of anything previously done thereunder or to the making of new regulations.

(4) In reckoning any period of forty days, no account shall be taken of any time during which the Legislative Council is dissolved or prorogued or during which the Legislative Council is adjourned for more than seven days.

10. No act done or proceedings taken under this Ordinance shall be questioned on the ground— Protection of the Board.

- (a) of the existence of any vacancy in the membership of, or any defect in the constitution of, the Board; or
- (b) of any omission, defect or irregularity not affecting the merits of the case.

11. No personal liability attaches to any member in respect of any thing done or suffered in good faith under the provisions of this Ordinance, and any sums of money or damages recovered against any such member in respect of any act or thing done *bona fide* for the purpose of carrying this Ordinance into effect shall be paid out of the funds and assets of the Board. Protection of members.

12. The Board shall pay to the members, other than the official member, such remuneration and allowances, if any, as the Minister may determine. Remuneration of members.

13. (1) The Schedule to the Legislative Council (Removal of Certain Disqualifications) Ordinance, 1957 is hereby amended by deleting the fourth entry therein and by inserting in place thereof, the following— Membership of Board Committee not office of emolument Ord. No. 19-1957.

"FIRST COLUMN <i>Provision of Law</i>	SECOND COLUMN <i>Office</i>
<p>Ch. 23. No. 16. Cocoa Industry (Rehabilitation) Ordinance</p>	<p>Member of the Cocoa (Rehabilitation) Board, excluding the chairman</p>
<p>Cocoa Industry Ordinance</p>	<p>Member of the Cocoa Industry Board, excluding the chairman."</p>

Ord. No. 20—
1957.

(2) The Schedule to the Local Government (Removal of Certain Disqualifications) Ordinance, 1957 is hereby amended by deleting the fourth entry therein and by inserting in place thereof the following—

‘FIRST COLUMN	SECOND COLUMN
<i>Provision of Law</i>	<i>Office</i>
Cocoa Industry (Rehabilitation) Ordinance	Member of the Cocoa (Rehabilitation) Board, excluding the chairman.
Cocoa Industry Ordinance	Member of the Cocoa Industry Board, excluding the chair- man.”

Transfer to
Board of
funds held
by Accountant
General.
Ch. 23. No. 21.

14. On the coming into force of this Ordinance any balance from the net proceeds from the sale of cocoa held by the Accountant General under the Exportation of Cocoa Ordinance shall, after payment of all expenses incurred by the Accountant General and all dividends declared under the said Ordinance, be vested in and transferred to the Board.

Funds and
assets of
the Board.

15. The funds and assets of the Board shall consist of—

- (a) all sums received by the Board from the sale of cocoa exported by licensed exporters under this Ordinance;
- (b) all sums collected under the authority of any regulations made under this Ordinance;
- (c) such sums as may be advanced by the Treasury under the provisions of section 40 of the Exchequer and Audit Ordinance, 1959;
- (d) all other sums or property that in any manner become payable to or vested in the Board in respect of any matter incidental to its powers and duties.

Ord. No. 20—
1959.

Application
of funds of
the Board.

16. The funds and assets of the Board shall be applied to the remuneration of the members, officers and servants of the Board, and to the discharge of all liabilities incurred by the Board in the exercise of its powers or in the performance of its duties and functions.

Payment of
dividends.

17. (1) At the end of each crop year, the Board shall, out of its funds, pay such dividends as may be declared in accordance with the provisions of subsection (3) in respect of such crop year to producers other than producers who were at any time during such crop year—

- (a) members of the Cocoa Planters' Association of Trinidad Limited, or of any co-operative society that during such crop year held a permit granted under paragraph (b) of subsection (2) of section 4;

(b) holders of permits granted under paragraph (c) of subsection (2) of section 4.

(2) Producers to whom subsection (1) applies and who have sold cocoa to buying agents during the crop year to which the dividend relates shall submit their claims for the payment of the dividends to the Board in such returns as may be prescribed, on or before a date to be fixed by the Minister.

(3) The Board shall, with the approval of the Minister declare the rate per pound of the dividend to be paid to producers under this section in respect of each grade of cocoa sold by them to buying agents during the crop year to which the dividend relates.

18. Before declaring any dividend, the Board may with the approval of the Minister set aside out of its funds such sums as it thinks proper as a reserve or reserves, which shall, with the approval of the Minister, be used for declaring dividends or for any other purpose to which the funds of the Board may be applied. Reserves.

19. (1) Subject to the Exchequer and Audit Ordinance, 1959, the Board shall keep accounts of its transactions to the satisfaction of the Minister. Financial Accounts Ord. No. 20-1959.

(2) The members, officers and servants of the Board shall grant to the auditor appointed under this section to audit the accounts of the Board access to all books, documents, cash and securities of the Board and shall give to him on request all such information as may be within their knowledge in relation to the operation of the Board.

20. The Board shall not later than six months after the end of each crop year submit to the Minister a report containing an account of their transactions throughout the preceding crop year in such detail as the Minister may direct together with such other reports as may be required by the Minister under section 45 of the Exchequer and Audit Ordinance, 1959. Annual Report.

21. No licence shall be granted to a person under paragraph (e) of subsection (2) of section 4 unless that person has first entered into an agreement with the Board to purchase and sell cocoa in accordance with the provisions of this Ordinance and in accordance with such terms and conditions as the Board may prescribe with respect to such licences. Conditions and terms of licence.

22. (1) The Board may in its discretion suspend or cancel a permit or licence if the holder of the permit or licence contravenes or fails to comply with any terms or conditions subject to which the permit or licence was granted. Board may suspend or cancel permit or licence.

Right of appeal.

(2) A person aggrieved by the suspension or cancellation of his permit or licence may appeal to the Governor in Council and the decision of the Governor in Council on such appeal is final.

Conditions implied in permit or licence.

23. (1) It is a condition of every permit or licence granted under paragraph (a), (b), (c) or (e) of subsection (2) of section 4 that no cocoa is to be exported that does not meet a standard of quality prescribed by the Board for export.

(2) It is a condition of every licence granted under paragraph (e) of subsection (2) of section 4 that the licensed exporter shall pay over to the Board the net proceeds from the sale of cocoa exported in pursuance of such licence, other than cocoa exported as agent of any producer, within ten days of the exportation thereof.

(3) For the purposes of subsection (2), "net proceeds" means the gross proceeds of sale diminished by—

- (a) such allowances and commissions as may be prescribed in respect of such sale,
- (b) any cess levied under the Cocoa Industry (Rehabilitation) Ordinance, and
- (c) brokerage charges, foreign agents' commissions, ocean freight, marine and fire insurance premiums.

Ch. 23. No. 16.

Association and co-operative society to supply names and addresses of members.

24. If a permit is granted to the Cocoa Planters' Association of Trinidad Limited and to any co-operative society under paragraph (a) or (b) of subsection (2) of section 4, the Association and any co-operative society shall keep the Board supplied with the names and addresses of their respective members.

Restrictions on purchase and export of cocoa.

25. (1) Except as provided in this Ordinance—

- (a) no person other than the Board or a registered producer shall sell cocoa locally and no producer shall sell cocoa, except cocoa that is the produce of lands owned or occupied by him;
- (b) no person shall purchase cocoa from a producer except the Board or a buying agent;
- (c) no person engaged in the manufacture of cocoa products shall purchase cocoa except from a licensed exporter;
- (d) no person shall export cocoa except—
 - (i) the Board, if authorised in writing by the Minister, or

(ii) a licensed exporter, or a person who holds a valid permit issued under subsection (2) of section 4,

and cocoa sold to a manufacturer of cocoa products shall be deemed to be exported;

(e) no person shall purchase or sell cocoa locally except at prices fixed by the Board and published in the *Royal Gazette*;

(f) no person except with the permission of the Board shall buy or sell wet or uncured cocoa.

(2) Any person who contravenes any provision of subsection (1) is guilty of an offence and liable on summary conviction therefor to a fine of two thousand five hundred dollars or to imprisonment for two years or to both such fine and such imprisonment.

(3) Where an offence against this section is committed by a body corporate and the offence is proved to have been committed with the consent or approval of any director, manager, secretary or other officer of such body corporate, he, as well as the body corporate, shall be deemed to be guilty of the offence and he is liable to be proceeded against and punished accordingly.

26. (1) Any producer who sells or offers for sale to the Board or a buying agent, and any buying agent who purchases or delivers or takes delivery of cocoa—

Restriction
as to dealing.

(a) on any Sunday, Christmas Day, Good Friday or Corpus Christi Day, or

(b) at any place other than the premises of a buying agent, or

(c) at any time except between the hours of six o'clock in the forenoon and six o'clock in the afternoon of any day,

shall, subject to the provisions hereinafter appearing, be liable on summary conviction to a fine of five hundred dollars.

(2) Nothing in this section contained shall be construed to prevent a buying agent or the Board from purchasing cocoa—

(a) from the producer and upon the lands on which the cocoa has been actually grown, or

(b) at a railway station or a steamer's depot.

(3) Nothing in this section contained shall be construed to prevent the Board or a licensed exporter or a person who holds a valid permit under subsection (2) of section 4 from shipping cocoa directly from the lands on which the cocoa has been actually grown.

Exemption.

27. (1) This Ordinance does not apply to the sale of cocoa by a producer to any person *bona fide* for domestic use by such person.

(2) If cocoa is purchased from a producer by any person in excess of a quantity of ten pounds, it shall be presumed that the cocoa was not purchased for domestic use by that person, unless the contrary is proved.

Penalty
for false
information.

28. A producer who, when offering cocoa for sale to the Board or a buying agent, refuses to answer or makes any false answer, to any question put to him by the Board or buying agent for the purpose of complying with the provisions of this Ordinance is guilty of an offence under this Ordinance and liable on summary conviction therefor to a fine of two hundred and forty dollars.

Other
Offences

29. (1) Any person who—

- (a) falsely holds himself out or represents himself as a buying agent or a licensed exporter, or
- (b) falsely claims to be a producer entitled to the payment of a dividend under section 17, or
- (c) contravenes or fails to comply with any terms or conditions of a permit or licence granted under this Ordinance,

is guilty of an offence and liable on summary conviction to a fine of one thousand dollars or to imprisonment for six months or to both such fine and such imprisonment.

(2) The conviction of a person charged with an offence under paragraph (c) of subsection (1) does not affect the power of the Board under section 22 to suspend or cancel the permit or licence of the person convicted.

Exception to
payment of
commission.

30. A licensed exporter who is also licensed as a buying agent shall not be entitled to a commission in respect of his services as a buying agent.

31. Any minutes made of meetings of the Board, if purporting to be signed by the chairman, are receivable in evidence in all legal proceedings without further proof and every meeting of the Board in respect of the proceedings of which minutes have been so signed shall be deemed to have been duly convened and held and all the members present thereat to have been duly qualified to act. Minutes receivable in evidence.

32. The Cocoa Industry Ordinance is amended—

- (a) by substituting for the expression "Cocoa Board" wherever it appears in that Ordinance or in the long title thereto the expression "Cocoa (Rehabilitation) Board";
- (b) by inserting immediately after the word "Industry" occurring in section 1 thereof the word and symbols "(Rehabilitation)";
- (c) by deleting the definition of "licensed dealer" appearing in section 2 thereof;
- (d) by deleting section 15 thereof.

Ch. 23. No. 16 amended.

33. The sections of the Sale of Produce Ordinance specified in the first column of the Second Schedule to this Ordinance are amended to the extent specified in the second column of the said Schedule. Ch. 23. No. 18 amended. Second Schedule.

34. The Exportation of Cocoa Ordinance is hereby repealed. Ch. 23. No. 21 repealed.

FIRST SCHEDULE

(Section 3(2)(c))

Alstons Limited.

Gordon Grant and Company Limited.

Donawa Limited.

George F. Huggins and Company Limited.

William H. Kennedy and Company Limited.

James Leung and Company Limited.

Salazar Sucre Limited.

Marlay and Company Limited.

SECOND SCHEDULE

(Section 33)

FIRST COLUMN	SECOND COLUMN
<i>Section</i>	<i>Amendment</i>
Section 2 (1)	... (a) delete the definition of "cocoa"; (b) delete the word "cocoa" occurring in the definition of "Licensable produce".
Section 2 (2)	... repeal.
Section 18 (1)	... delete the words "cocoa and other" occurring therein.
Section 22 (1)	... repeal paragraph (a) thereof.
Section 24 (3)	... delete the words "cured cocoa, or" occurring therein.
Section 32	... delete the words "who carried on the business of making chocolate or cocoa powder and who purchases cocoa solely for that purpose, or a person".
Section 43	... repeal.

Passed in Council this twenty-sixth day of May, in the year of Our Lord one thousand nine hundred and sixty-one.

G. R. LATOUR
Clerk of the Council