II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION

of 20 September 1976

on the notification of the provisional application by the European Economic Community of the International Coffee Agreement 1976

(76/845/EEC)

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,

Whereas, in accordance with the Council Decision of 20 July 1976, the Community signed the International Coffee Agreement 1976, on 27 July 1976, subject to the conclusion thereof;

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

HAS DECIDED AS FOLLOWS:

Article 1

In accordance with Article 61 of the International Coffee Agreement 1976, the Community will deposit with the Secretary-General of the United Nations Organization before 30 September 1976 the notification annexed to this Decision stating that it will apply the Agreement provisionally, as an importing member, when the Agreement enters into force in accordance with the said Article.

The text of the Agreement is annexed to this Decision.

Article 2

The President of the Council is hereby authorized to designate the person empowered to deposit this notification [1].

Done at Brussels, 20 September 1976.

For the Council

The President

M. van der STOEL

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

ANNEX I

Notification of provisional application of the International Coffee Agreement 1976

In accordance with Article 61 of the International Coffee Agreement 1976, the European Economic Community hereby deposits this notification of the provisional application thereof. In giving this notification the Community will consider itself provisionally an importing member of the said Agreement, with all the rights and obligations arising therefrom, when the Agreement enters into force in accordance with the said Article and until the date on which the Decision concluding the Agreement is deposited by the Council of the European Communities.

ANNEX II

INTERNATIONAL COFFEE AGREEMENT 1976

PREAMBLE

THE GOVERNMENTS PARTY TO THIS AGREEMENT,

Recognizing the exceptional importance of coffee to the economies of many countries which are largely dependent upon this commodity for their export earnings and thus for the continuation of their development programmes in the social and economic fields;

Considering that close international cooperation on trade in coffee will foster the economic diversification and development of coffee-producing countries, will improve the political and economic relations between producers and consumers and will provide for increasing consumption of coffee;

Recognizing the desirability of avoiding disequilibrium between production and consumption which can give rise to pronounced fluctuations in prices harmful both to producers and to consumers;

Believing that international measures can assist in correcting the effects of such disequilibrium, as well as help to ensure an adequate level of earnings to producers through remunerative prices;

Noting the advantages derived from the international cooperation which resulted from the operation of the International Coffee Agreement 1962 and 1968.

HAVE AGREED AS FOLLOWS:

CHAPTER I

OBJECTIVES

Article 1

Objectives

The objectives of this Agreement are:

1. to achieve a reasonable balance between world supply and demand on a basis which will assure adequate supplies of coffee at fair prices to consumers and markets for coffee at remunerative prices to producers and which will be conducive to long-term equilibrium between production and consumption;

2. to avoid excessive fluctuations in the levels of world supplies, stocks and prices which are harmful to both producers and consumers ;

3. to contribute to the development of productive resources and to the promotion and maintenance of employment and income in member countries, thereby helping to bring about fair wages, higher living standards and better working conditions;

4. to increase the purchasing power of coffee-exporting countries by keeping prices in accordance with the provisions of paragraph 1 of this Article and by increasing consumption;

5. to promote and increase the consumption of coffee by every possible means; and

6. in general, in recognition of the relationship of the trade in coffee to the economic stability of markets for industrial products, to further international cooperation in connection with world coffee problems.

Article 2

General undertakings by members

1. Members undertake to conduct their trade policy in such a way that the objectives set out in Article 1 may be attained. They further undertake to achieve these objectives by strict observance of the obligations and provisions of this Agreement.

2. Members recognize the need to adopt policies which will maintain prices at levels which will ensure adequate remuneration to producers and seek to ensure that prices of coffee to consumers will not hamper a desirable increase in consumption.

3. Exporting members undertake not to adopt or maintain any governmental measures which would permit the sale of coffee to non members on terms commercially more favourable than those which they are prepared to offer at the same time to importing members, taking into account normal trade practices.

4. The Council shall review periodically compliance with the provisions of paragraph 3 of this Article and may require members to supply appropriate information in accordance with the provisions of Article 53.

5. Members recognize that certificates of origin are a vital source of information on the trade in coffee. During periods when quotas are suspended, the responsibility for ensuring the proper use of certificates of origin rests with exporting members. However, importing members, while under no obligation to demand that certificates accompany consignments of coffee when quotas are not in effect, shall cooperate fully with the Organization in the collection and verification of certificates relating to shipments of coffee received from exporting member countries in order to ensure that the maximum information is available to all members.

CHAPTER II

DEFINITIONS

Article 3

Definitions

For the purposes of this Agreement:

1. 'Coffee' means the beans and cherries of the coffee tree, whether parchment, green or roasted, and includes ground, decaffeinated, liquid and soluble coffee. These terms shall have the following meaning:

   (a) 'green coffee' means all coffee in the naked bean form before roasting;

   (b) 'dried coffee cherry' means the dried fruit of the coffee tree; to find the equivalent of dried coffee cherry to green coffee, multiply the net weight of the dried coffee cherry by 0·50;

   (c) 'parchment coffee' means the green coffee bean contained in the parchment skin; to find the equivalent of parchment coffee to green coffee, multiply the net weight of the parchment coffee by 0·80;

   (d) 'roasted coffee' means green coffee roasted to any degree and includes ground coffee; to find the equivalent of roasted coffee to green coffee, multiply the net weight of roasted coffee by 1·19;

   (e) 'decaffeinated coffee' means green, roasted or soluble coffee from which caffeine has been extracted; to find the equivalent of decaffeinated coffee to green coffee, multiply the net weight of the decaffeinated coffee in green, roasted or soluble form by 1·00, 1·19 or 3·00 [1] respectively;

   (f) 'liquid coffee' means the water-soluble solids derived from roasted coffee and put into liquid form; to find the equivalent of liquid to green coffee, multiply the net weight of the dried coffee solids contained in the liquid coffee by 3·00 [1];

[1] The conversion factor of 3·00 shall be reviewed and may be revised by the Council in the light of decisions taken by recognized international authorities.

(g) 'soluble coffee' means the dried water-soluble solids derived from roasted coffee; to find the equivalent of soluble coffee to green coffee, multiply the net weight of the soluble coffee by 3·00 (1).

2. 'Bag' means 60 kilogrammes or 132·276 pounds of green coffee; 'tonne' means a metric ton of 1 000 kilogrammes or 2 204·6 pounds; and 'pound' means 453·597 grams.

3. 'Coffee year' means the period of one year, from 1 October to 30 September.

4. 'Organization', 'Council' and 'Board' mean, respectively, the International Coffee Organization, the International Coffee Council, and the Executive Board.

5. 'Member' means a contracting Party including an intergovernmental organization referred to in Article 4 (3), a designated territory or territories in respect of which separate membership has been declared under the provisions of Article 5; or two or more contracting Parties or designated territories, or both, which participate in the Organization as a member group under the provisions of Article 6 or 7.

6. 'Exporting member' or 'exporting country' means a member or country, respectively, which is a net exporter of coffee; that is, a member or country whose exports exceed its imports.

7. 'Importing member' or 'importing country' means a member or country, respectively, which is a net importer of coffee; that is, a member or country whose imports exceed its exports.

8. 'Producing member' or 'producing country' means a member or country, respectively, which grows coffee in commercially significant quantities.

9. 'Distributed simple majority vote' means a majority of the votes cast by exporting members present and voting and a majority of the votes cast by importing members present and voting, counted separately.

10. 'Distributed two-thirds majority vote' means a two-thirds majority of the votes cast by exporting members present and voting and a two-thirds majority of the votes cast by importing members present and voting, counted separately.

11. 'Entry into force' means, except as otherwise provided, the date on which this Agreement enters into force, whether provisionally or definitively.

12. 'Exportable production' means the total production of coffee of an exporting country in a given coffee or crop year, less the amount destined for domestic consumption in the same year.

13. 'Availability for export' means the exportable production of an exporting country in a given coffee year, plus accumulated stocks from previous years.

14. 'Export entitlement' means the total quantity of coffee which a member is authorized to export under the various provisions of this Agreement, but excluding exports which under the provisions of Article 44 are not charged to quotas.

15. 'Shortfall' means the difference between the annual export entitlement of an exporting member in a given coffee year and the amount of coffee which that member has exported to quota markets in that coffee year.

CHAPTER III

MEMBERSHIP

Article 4

Membership in the Organization

1. Each contracting party, together with those territories to which this Agreement is extended under the provisions of Article 64 (1), shall constitute a single member of the Organization, except as otherwise provided for under the provisions of Articles 5, 6 and 7.

2. A member may change its category of membership on such conditions as the Council may agree.

3. Any reference in this Agreement to a Government shall be construed as including a reference to the European Economic Community, or any intergovernmental organization having comparable responsibilities in respect of the negotiation, conclusion and application of international agreements, in particular commodity agreements.

(1) The conversion factor of 3·00 shall be reviewed and may be revised by the Council in the light of decisions taken by recognized international authorites.

4. Such intergovernmental organization shall not itself have any votes but in the case of a vote on matters within its competence it shall be entitled to cast collectively the votes of its member States. In such cases, the member States of such intergovernmental organization shall not be entitled to exercise their individual voting rights.

5. The provisions of paragraph 1 of Article 16 shall not apply to such intergovernmental organization but it may participate in the discussions of the Executive Board on matters within its competence. In the case of a vote on atters within its competence, and notwithstanding the provisions of paragraph 1 of Article 19, the votes which its member States are entitled to cast in the Executive Board may be cast collectively by any one of those member States.

Article 5

eSparate membership in respect of designated territories

Any contracting party which is a net importer of coffee may, at any time, by appropriate notification in accordance with the provisions of Article 64 (2) declare that it is participating in the Organization separately with respect to any of the territories for whose international relations it is responsible, which are net exporters of coffee and which it designates. In such case, the metropolitan territory and its non-designated territories will have a single membership, and its designated territories, either individually or collectively as the notification indicates, will have separate membership.

Article 6

Group membership upon joining the Organization

1. Two or more contracting parties which are net exporters of coffee may, by appropriate notification to the Council and to the Secretary-General of the United Nations at the time of deposit of their respective instruments of approval, ratification, acceptance or accession, declare that they are joining the Organization as a member group. A territory to which this Agreement has been extended under the provisions of Article 64 (1) may constitute part of such member group if the Government of the State responsible for its international relations has given appropriate notification thereof under the provisions of Article 64 (2). Such contracting parties and designated territories must satisfy the following conditions:

(a) they shall declare their willingness to accept responsibility for group obligations in an individual as well as a group capacity;

(b) they shall subsequently provide satisfactory evidence to the Council that:

(i) the group has the organization necessary to implement a common coffee policy and that they have the means of complying, together with the other parties to the group, with their obligations under this Agreement; and that either

(ii) they have been recognized as a group in a previous International Coffee Agreement; or

(iii) they have a common or coordinated commercial and economic policy in relation to coffee and a coordinated monetary and financial policy, as well as the organs necessary to implement such policies, so that the Council is satisfied that the member group is able to comply with the group obligations involved.

2. The member group shall constitute a single member of the Organization, except that each party to the group shall be treated as if it were a single member in relation to matters arising under the following provisions:

(a) Articles 11, 12 and 20 of Chapter IV;

(b) Articles 50 and 51 of Chapter VIII; and

(c) Article 67 of Chapter X.

3. The contracting parties and designated territories joining as a member group shall specify the Government or organization which will represent them in the Council on matters arising under this Agreement other than those specified in paragraph 2 of this Article.

4. The voting rights of the member group shall be as follows:

(a) the member group shall have the same number of basic votes as a single member country joining the Organization in an individual capacity. These basic votes shall be attributed to and cast by the Government or organization representing the group; and

(b) in the event of a vote on any matters arising under the provisions of paragraph 2 of this Article, the parties to the member group may cast separately the votes attributed to them under the provisions of Article 13 (3) and (4) as if each were an individual member of the Organization, except for the basic votes, which shall remain attributable only to the Government or organization representing the group.

5. Any contracting party or designated territory which is a party to a member group may, by notification to the Council, withdraw from that group and become a separate member. Such withdrawal shall take effect upon receipt of the notification by the Council. If a party to a member group withdraws from that group or ceases to participate in the Organization, the remaining parties to the group may apply to the Council to maintain the group; the group shall continue to exist unless the Council disapproves the application. If the member group is dissolved, each former party to the group will become a separate member. A member which has ceased to be a party to a group may not, as long as this Agreement remains in force, again become a party to a group.

Article 7

Subsequent group membership

Two or more exporting members may, at any time after this Agreement has entered into force, apply to the Council to form a member group. The Council shall approve the application if it finds that the members have made a declaration and have provided satisfactory evidence in accordance with the requirements of paragraph 1 of Article 6. Upon such approval, the member group shall be subject to the provisions of paragraphs 2, 3, 4 and 5 of that Article.

CHAPTER IV

ORGANIZATION AND ADMINISTRATION

Article 8

Seat and structure of the International Coffee Organization

1. The International Coffee Organization established under the 1962 Agreement shall continue in being to administer the provisions and supervise the operation of this Agreement.

2. The seat of the Organization shall be in London unless the Council by a distributed two-thirds majority vote decides otherwise.

3. The Organization shall function through the International Coffee Council, the Executive Board, the Executive Director and the staff.

Article 9

Composition of the International Coffee Council

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

2. Each member shall appoint one representative on the Council and, if it so desires, one or more alternates. A member may also designate one or more advisers to its representative or alternates.

Article 10

Powers and functions of the Council

1. All powers specifically conferred by this Agreement shall be vested in the Council, which shall have the powers and perform the functions necessary to carry out the provisions of this Agreement.

2. The Council shall, by a distributed two-thirds majority vote, establish such rules and regulations, including its own rules of procedure and the financial and staff regulations of the Organization, as are necessary to carry out the provisions of this Agreement and are consistent therewith. The Council may, in its rules of procedure, provide the means whereby it may, without meeting, decide specific questions.

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

Article 11

Election of the chairman and vice-chairmen of the Council

1. The Council shall elect, for each coffee year, a chairman and a first, a second and a third vice-chairman.

2. As a general rule, the chairman and the first vice-chairman shall both be elected either from among the representatives of exporting members or from among the representatives of importing members and the second and the third vice-chairman shall be elected from among representatives of the other category of member. These offices shall alternate each coffee year between the two categories of member.

3. Neither the chairman nor any vice-chairman acting as chairman shall have the right to vote. His alternate will in such case exercise the voting rights of the member.

Article 12

Sessions of the Council

As a general rule, the Council shall hold regular sessions twice a year. It may hold special sessions should it so decide. Special sessions shall also be held at the request of the Executive Board, of any five members, or of a member or members having at least 200 votes. Notice of sessions shall be given at least thirty days in advance except in cases of emergency. Sessions shall be held at the seat of the Organization, unless the Council decides otherwise.

Article 13

Votes

1. The exporting members shall together hold 1 000 votes and the importing members shall together hold 1 000 votes, distributed within each category of member — that is, exporting and importing members, respectively — as provided for in the following paragraphs of this Article.

2. Each Member shall have five basic votes, provided that the total number of basic votes within each category of member does not exceed 150. Should there be more than 30 exporting members or more than 30 importing members, the number of basic votes for each member within that category of member shall be adjusted so as to keep the number of basic votes for each category of member within the maximum of 150.

3. Exporting members listed in Annex 1 as having an initial annual export quota of 100 000 bags of coffee or more but less than 400 000 bags shall, in addition to the basic votes, have the number of votes attributed to them in column 2 of Annex 1. If any exporting member referred to in this paragraph elects to have a basic quota under the provisions of paragraph 5 of Article 31, the provisions of this paragraph shall cease to apply to it.

4. Subject to the provisions of Article 32, the remaining votes of exporting members shall be divided among those members having a basic quota in proportion to the average volume of their respective exports of coffee to importing members in coffee years 1968/69 to 1971/72 inclusive. This will constitute the basis of voting for the exporting members concerned until 31 December 1977. With effect from 1 January 1978 the remaining votes of exporting members having a basic quota shall be calculated in proportion to the average volume of their respective exports of coffee to importing members as follows:

With effect from 1 January	Coffee years
1978	1969/70, 1970/71, 1971/72, 1976/77
1979	1970/71, 1971/72, 1976/77, 1977/78
1980	1971/72, 1976/77, 1977/78, 1978/79
1981	1976/77, 1977/78, 1978/79, 1979/80
1982	1977/78, 1978/79, 1979/80, 1980/81

5. The remaining votes of importing members shall be divided among those members in proportion to the average volume of their respective coffee imports in the preceding three calendar years.

6. The distribution of votes shall be determined by the Council in accordance with the provisions of this Article at the beginning of each coffee year and shall remain in effect during that year, except as provided for in paragraphs 4 and 7 of this Article.

7. The Council shall provide for the redistribution of votes in accordance with the provisions of this Article whenever there is a change in the membership of the Organization, or if the voting rights of a Member are suspended or regained under the provisions of Articles 26, 42, 45 or 58.

8. No member shall hold more than 400 votes.

9. There shall be no fractional votes.

Article 14

Voting procedure of the Council

1. Each member shall be entitled to cast the number of votes it holds and shall not be entitled to divide its votes. However, a member may cast differently any votes which it holds under the provisions of paragraph 2 of this Article.

2. 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 exercise its right to vote at any meeting or meetings of the Council. The limitation provided for in Article 13 (8) shall not apply in this case.

Article 15

Decisions of the Council

1. All decisions of the Council shall be taken, and all recommendations shall be made, by a distributed simple majority vote unless otherwise provided for in this Agreement.

2. The following procedure shall apply with respect to any decision by the Council which under the provisions of this Agreement requires a distributed two-thirds majority vote:

(a) if a distributed two-thirds majority vote is not obtained because of the negative vote of three or less exporting or three or less importing members, the proposal shall, if the Council so decides by a majority of the members present and by a distributed simple majority vote, be put to a vote again within 48 hours;

(b) if a distributed two-thirds majority vote is again not obtained because of the negative vote of two or less importing or two or less exporting members, the proposal shall, if the Council so decides by a majority of the members present and by a distributed simple majority vote, be put to a vote again within 24 hours;

(c) if a distributed two-thirds majority vote is not obtained in the third vote because of the negative vote of one exporting member or one importing member, the proposal shall be considered adopted; and

(d) if the Council fails to put a proposal to a further vote, it shall be considered rejected.

3. Members undertake to accept as binding all decisions of the Council under the provisions of this Agreement.

Article 16

Composition of the Board

1. The Executive Board shall consist of eight exporting members and eight importing members elected for each coffee year in accordance with the provisions of Article 17. Members may be re-elected.

2. Each member of the Board shall appoint one representative and, if it so desires, one or more alternates. Each member may also designate one or more advisers to its representative or alternates.

3. The Executive Board shall have a chairman and vice-chairman who shall be elected by the Council for each coffee year and may be re-elected. Neither the chairman nor a vice-chairman acting as chairman shall have the right to vote. If a representative is elected chairman or if a vice-chairman is acting as chairman, his alternate will have the right to vote in his place. As a general rule, the chairman and the vice-chairman for each coffee year shall be elected from among the representatives of the same category of member.

4. The Board shall normally meet at the seat of the Organization but may meet elsewhere.

Article 17

Election of the Board

1. The exporting and the importing members of the Board 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 the provisions of the following paragraphs of this Article.

2. Each member shall cast for a single candidate all the votes to which it is entitled under the provisions of Article 13. A member may cast for another candidate any votes which it holds under the provisions of Article 14 (2).

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 75 votes.

4. If, under the provisions of paragraph 3 of this Article, 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 eight candidates are elected.

5. Any member which did not vote for any of the members elected shall assign its votes to one of them, subject to the provisions of paragraphs 6 and 7 of this Article.

6. A member shall be deemed to have received the number of votes 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 499 for any member elected.

7. If the votes deemed received by an elected member exceed 499, 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 reassign them to another elected member so that the votes received by each elected member shall not exceed the limit of 499.

Article 18

Competence of the Board

1. The Board shall be responsible to and work under the general direction of the Council.

2. The Council may, by a distributed two-thirds majority vote, delegate to the Board the exercise of any or all of its powers other than the following:

(a) approval of the administrative budget and assessment of contributions under the provisions of Article 25;

(b) suspension of the voting rights of a member under the provisions of Article 45 or 58;

(c) waiver of the obligations of a member under the provisions of Article 56;

(d) decisions on disputes under the provisions of Article 58;

(e) establishment of conditions for accession under the provisions of Article 62;

(f) a decision to require the exclusion of a member under the provisions of Article 66;

(g) a decision concerning renegotiation, extension or termination of this Agreement under the provisions of Article 68; and

(h) recommendation of amendments to members under the provisions of Article 69.

3. The Council may, by a distributed simple majority vote, at any time revoke any powers which have been delegated to the Board.

Article 19

Voting procedure of the Board

1. Each member of the Board shall be entitled to cast the number of votes received by it under the provisions of paragraphs 6 and 7 of Article 17. Voting by proxy shall not be allowed. A member of the Board shall not be entitled to divide its votes.

2. Any decision taken by the Board shall require the same majority as such decision would require if taken by the Council.

Article 20

Quorum for the Council and the Board

1. The quorum for any meeting of the Council shall be the presence of a majority of the members representing a distributed two-thirds majority of the total votes. If there is no quorum at the time appointed for the commencement of any Council meeting, the chairman of the Council may decide to postpone the opening time of the meeting for at least three hours. If there is no quorum at the new time set, the chairman may again defer the opening time of the Council meeting for at least a further three hours. This procedure may be repeated until a quorum is present at the appointed time. Representation in accordance with the provisions of paragraph 2 of Article 14 shall be considered as presence.

2. The quorum for any meeting of the Board shall be the presence of a majority of the members representing a distributed two-thirds majority of the total votes.

Article 21

The Executive Director and the staff

1. The Council shall appoint the Executive Director on the recommendation of the Board. The terms of appointment of the Executive Director shall be established by the Council and shall be comparable to 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 this Agreement.

3. The Executive Director shall appoint the staff in accordance with regulations established by the Council.

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

5. In the performance of their duties, the Executive Director and the staff shall not seek or receive instructions from any member or from any other 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 undertakes to respect the exclusively international character of the responsibilities of the Executive Director and the staff and not to seek to influence them in the discharge of their responsibilities.

Article 22

Cooperation with other Organizations

The Council may make whatever arrangements are desirable for consultation and cooperation with the United Nations and its specialized agencies and with other appropriate intergovernmental organizations. The Council may invite these organizations and any organizations concerned with coffee to send observers to its meetings.

CHAPTER V

PRIVILEGES AND IMMUNITIES

Article 23

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, of its Executive Director, its staff and experts, and of representatives of members while in the territory of the United Kingdom of Great Britain and Northern Ireland for the purpose of exercising their functions, shall continue to be governed by the Headquarters Agreement concluded between the Government of the United Kingdom of Great Britain and Northern Ireland (hereinafter referred to as the host Government) and the Organization on 28 May 1969.

3. The Headquarters Agreement referred to in paragraph 2 of this Article shall be independent of this Agreement. It shall however terminate:

(a) by agreement between the host Government and the Organization;

(b) in the event of the headquarters of the Organization being moved from the territory of the host Government; or

(c) in the event of the Organization ceasing to exist.

4. The Organization may conclude with one or more other members Agreements to be approved by the Council relating to such privileges and immunities as may be necessary for the proper functioning of this Agreement.

5. The Governments of member countries other than the host Government shall grant the Organization the same facilities in respect of currency or exchange restrictions, maintenance of bank accounts and transfer of monies, as are accorded to the specialized agencies of the United Nations.

CHAPTER VI

FINANCE

Article 24

Finance

1. The expenses of delegations to the Council, representatives on the Board and representatives on any of the committees of the Council or the Board shall be met by their respective Governments.

2. The other expenses necessary for the administration of this Agreement shall be met by annual contributions from the members assessed in accordance with the provisions of Article 25. However, the Council may levy fees for specific services.

3. The financial year of the Organization shall be the same as the coffee year.

Article 25

Determination of the 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 budget for each financial year shall be in the proportion which the number of its votes at the time the budget for that financial year is approved bears to the total votes of all the members. However, if there is any change in the distribution of votes among members in accordance with the provisions of Article 13 (6) at the beginning of the financial year for which contributions are assessed, such contributions shall be correspondingly adjusted for that year. In determining contributions, the votes of each member shall be calculated without regard to the suspension of the voting rights of any Member or any redistribution of votes resulting therefrom.

3. The initial contribution of any member joining the Organization after the entry into force of this Agreement shall be assessed by the Council on the basis of the number of votes to be held by it and the period remaining in the current financial year, but the assessments made upon other Members for the current financial year shall not be altered.

Article 26

Payment of contributions

1. 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.

2. If any Member fails to pay its full contribution to the administrative budget within six months of the date on which the contribution is due, both its voting rights in the Council and its right to have its votes cast in the Board shall be suspended until such contribution has been paid. However, unless the Council by a distributed two-thirds majority vote so decides, such member shall not be deprived of any of its other rights nor relieved of any of its obligations under this Agreement.

3. Any member whose voting rights have been suspended either under the provisions of paragraph 2 of this Article or under the provisions of Articles 42, 45 or 58 shall nevertheless remain responsible for the payment of its contribution.

Article 27

Audit and publication of accounts

As soon as possible after the close of each financial year, an independently audited statement of the Organization's receipts and expenditures during that financial year shall be presented to the Council for approval and publication.

CHAPTER VII

REGULATION OF EXPORTS AND IMPORTS

Article 28

General provisions

1. All decisions of the Council under the provisions of this Chapter shall be adopted by a distributed two-thirds majority vote.

2. The word 'annual' in this Chapter shall mean any period of 12 months established by the Council. However, the Council may adopt procedures for applying the provisions of this Chapter for a period longer than 12 months.

Article 29

Markets subject to quota

For the purpose of this Agreement the world coffee market shall be divided into member quota and non-member non-quota markets.

Article 30

Basic quotas

1. Each exporting member shall, subject to the provisions of Articles 31 and 32, be entitled to a basic quota calculated in accordance with the provisions of this Article.

2. If, under the provisions of Article 33, quotas come into effect during coffee year 1976/77, the basic quota to be used for the distribution of the fixed part of the quotas shall be calculated on the basis of the average volume of the annual exports of each exporting member to importing members in coffee years 1968/69 to 1971/72. This distribution of the fixed part shall remain in effect until the quotas are suspended for the first time under the provisions of Article 33.

3. It quotas are not introduced in coffee year 1976/77 but come into effect during coffee year 1977/78, the basic quota to be used for the distribution of the fixed part of the quotas shall be calculated by

selecting for each exporting member the higher of the following:

(a) the volume of its exports to importing members during coffee year 1976/77 calculated on the basis of information obtained from certificates of origin; or

(b) the figure resulting from the application of the procedure established in paragraph 2 of this Article.

This distribution of the fixed part shall remain in effect until the quotas are suspended for the first time under the provisions of Article 33.

4. If quotas come into effect for the first time or are reintroduced during coffee year 1978/79, or at any time thereafter, the basic quota to be used for the distribution of the fixed part of the quotas shall be calculated by selecting for each exporting member the higher of the following:

(a) the average of the volume of its exports to importing members for coffee years 1976/77 and 1977/78 calculated on the basis of information obtained from certificates of origin ; or

(b) the figure resulting from the application of the procedure established in paragraph 2 of this Article.

5. If quotas are introduced under the provisions of paragraph 2 of this Article and subsequently suspended, their reintroduction during coffee year 1977/78 shall be governed by the provisions of paragraph 3 of this Article and paragraph 1 of Article 35. The reintroduction of quotas during coffee year 1978/79, or at any time thereafter, shall be governed by the provisions of paragraph 4 of this Article and Article 35 (1).

Article 31

Exporting members exempt from basic quotas

1. Subject to the provisions of paragraphs 4 and 5 of this Article, a basic quota shall not be allocated to the exporting members listed in Annex 1. Subject to the provisions of Article 33, in coffee year 1976/77 these members shall have the initial annual export quotas set out in column 1 of that Annex. Subject to the provisions of paragraph 2 of this Article and to those of Article 33, the quota of these members in each of the subsequent coffee years shall be increased by:

(a) 10% of the initial annual export quota in the case of members whose initial annual export quota is less than 100 000 bags; and

(b) 5% of the initial annual export quota in the case of members whose initial annual export quota is 100 000 bags or more but less than 400 000 bags.

These annual increments shall be deemed, for the purpose of setting the annual quotas of the members concerned whenever quotas are introduced or reintroduced under the provisions of Article 33, to have been effective from the entry into force of this Agreement.

2. Not later than 31 July of each year, each Member referred to in paragraph 1 of this Article shall notify the Council of the amount of coffee it is likely to have available for export during the next coffee year. The quota for the next coffee year shall be the amount thus indicated by the exporting Member, provided that such amount is within the permissible limit defined in paragraph 1 of this Article.

3. When the annual quota of an exporting member having an initial annual export quota of less than 100 000 bags reaches or exceeds the maximum of 100 000 bags referred to in paragraph 1 of this Article, the member shall thereafter be subject to the provisions applicable to exporting members whose initial annual export quotas are 100 000 bags or more but less than 400 000 bags.

4. When the annual quota of an exporting member having an initial annual export quota of less than 400 000 bags reaches the maximum of 400 000 bags referred to in paragraph 1 of this Article, the member shall thereafter be subject to the provisions of Article 35 and the Council shall set a basic quota for such Member.

5. Any exporting member listed in Annex 1 which exports 100 000 bags or more may at any time request the Council to establish a basic quota for it.

6. Members whose annual quotas are less than 100 000 bags shall not be subject to the provisions of Articles 36 and 37.

Article 32

Provisions for the adjustment of basic quotas

1. If an importing country which was neither a member of the International Coffee Agreement 1968 nor of the International Coffee Agreement 1968 as Extended becomes a member of this Agreement, the Council shall adjust the basic quotas resulting from the application of the provisions of Article 30.

2. The adjustment referred to in paragraph 1 of this Article shall take into account either the average exports of individual exporting members to the

importing country concerned during the period 1968 to 1972 or the proportionate share of individual exporting members in the average imports of that country during the same period.

3. The Council shall approve the data to be used as a basis for the calculations necessary for the adjustment of basic quotas, as well as the criteria to be followed for the purpose of applying the provisions of this Article.

Article 33

Provisions for the introduction, suspension and reintroduction of quotas

1. Unless the Council decides otherwise, quotas shall come into effect at any time during the life of this agreement if:

(a) the composite indicator price remains on average, for 20 consecutive market days, at or below the ceiling of the price range currently in effect established by the Council under the provisions of Article 38;

(b) in the absence of a decision by the Council to establish a price range:

(i) the average of the indicator prices for Other Mild and Robusta coffees remains on average, for 20 consecutive market days, at or below the average of these prices for calendar year 1975 as maintained by the Organization during the life of the International Coffee Agreement 1968 as extended; or

(ii) subject to the provisions of paragraph 2 of this Article, the composite indicator price calculated under the provisions of Article 38 remains on average, for 20 consecutive market days, 15 % or more below the average composite indicator price for the preceding coffee year during which this Agreement was in force ;

Notwithstanding the preceding provisions of this paragraph, quotas shall not come into effect on the entry into force of this Agreement unless the average of the indicator prices for Other Mild and Robusta coffees remains on average, for the 20 consecutive market days immediately preceding that date, at or below the average of these prices for calendar year 1975.

2. Notwithstanding the provisions of subparagraph (b) (ii) of paragraph 1 of this Article, quotas shall not come into effect, unless the Council decides otherwise, if the average of the indicator prices for Other Mild and Robusta coffees remains on average, for 20 consecutive market days 22·5% or more above the average of these prices for calendar year 1975.

3. The prices specified in subparagraph (b) (i) of paragraph 1 and in paragraph 2 of this Article shall be reviewed and may be revised by the Council prior to 30 September 1978 and to 30 September 1980.

4. Unless the Council decides otherwise, quotas shall be suspended:

(a) if the composite indicator price remains on average, for 20 consecutive market days, 15% above the ceiling of the price range established by the Council and currently in force ; or

(b) in the absence of a decision by the Council to establish a price range, if the composite indicator price remains on average, for 20 consecutive market days, 15% or more above the average composite indicator price recorded during the preceding calendar year.

5. Unless the Council decides otherwise, quotas shall be reintroduced, after suspension under the provisions of paragraph 4 of this Article, in accordance with the provisions of paragraphs 1, 2 and 6.

6. Whenever the relevant price conditions referred to in paragraph 1 of this Article are met, and subject to the provisions of paragraph 2 of this Article, quotas shall come into effect as soon as possible and in any event not later than the quarter following the fulfilment of the relevant price conditions. The quotas shall, except as otherwise provided for in this Agreement, be fixed for a period of four quarters. If the global annual and quarterly quotas have not previously been established by the Council, the Executive Director shall set a quota on the basis of the disappearance of coffee in quota markets, estimated in accordance with the criteria established in Article 34; such quota shall be allocated to exporting members in accordance with the provisions of Articles 31 and 35.

7. The Council shall be convened during the first quarter after quotas come into effect in order to establish price ranges and to review and, if necessary, revise quotas for such period as the Council deems advisable, provided that such period does not exceed 12 months from the date on which quotas came into effect.

Article 34

Setting of the global annual quota

Subject to the provisions of Article 33, the Council shall, at its last regular session of the coffee year, set a global annual quota taking into account *inter alia*, the following:

(a) estimated annual consumption of importing members;

(b) estimated imports of members from other importing members and from non-member countries;

(c) estimated changes in the level of inventories in importing member countries and in freeports;

(d) compliance with the provisions of Article 40 concerning shortfalls and their redistribution; and

(e) for the introduction or reintroduction of quotas under the provisions of Article 33 (1) and (5) exports of exporting members to importing members and to non-members during the 12-month period preceding the introduction of quotas.

Article 35

Allocation of annual quotas

1. In the light of the decision taken under the provisions of Article 34 and after deducting the amount of coffee required to comply with the provisions of Article 31, annual quotas shall be allocated in fixed and variable parts to exporting members entitled to a basic quota. The fixed part shall correspond to 70% of the global annual quota, as adjusted to comply with the provisions of Article 31, and shall be distributed among exporting members in accordance with the provisions of Article 30. The variable part shall correspond to 30% of the global annual quota, as adjusted to comply with the provisions of Article 31. These proportions may be changed by the Council but the fixed part shall never be less than 70%. Subject to the provisions of paragraph 2 of this Article, the variable part shall be distributed among exporting members in the proportion which the verified stocks of each exporting member bear to the total verified stocks of all exporting members having basic quotas, provided that, unless the Council establishes a different limit, no member shall receive a share of the variable part of the quota in excess of 40% of the total volume of such variable part.

2. The stocks to be taken into account for the purposes of this Article shall be those verified, in accordance with the appropriate rules for the verification of stocks, at the end of the crop year of each exporting member immediately preceding the setting of quotas.

Article 36

Quarterly quotas

1. Immediately following the allocation of annual quotas under the provisions of Article 35 (1), and subject to the provisions of Article 31, the Council shall allocate quarterly quotas to each exporting member for the purpose of assuring an orderly flow of coffee to world markets throughout the period for which quotas are set.

2. These quotas shall be, as nearly as possible, 25% of the annual quota of each Member. No member shall be allowed to export more than 30% in the first quarter, 60% in the first two quarters, and 80% in the first three quarters. If exports by any member in one quarter are less than its quota for that quarter, the outstanding balance shall be added to its quota for the following quarter.

3. The provisions of this Article shall also apply to the implementation of Article 33 (6).

4. If, on account of exceptional circumstances, an exporting Member considers that the limitations provided in paragraph 2 of this Article would be likely to cause serious harm to its economy, the Council may, at the request of that member, take appropriate action under the provisions of Article 56. The member concerned must furnish evidence of harm and provide adequate guarantees concerning the maintenance of price stability. The Council shall not, however, in any event, authorize a member to export more than 35% of its annual quota in the first quarter, 65% in the first two quarters, and 85% in the first three quarters.

Article 37

Adjustment of annual and quarterly quotas

1. If market conditions so require, the Council may vary the annual and quarterly quotas allocated under the provisions of Articles 33, 35 and 36. Subject to the provisions of Article 35 (1) and except as provided for in Article 31 and Article 39 (3), the

quotas of each exporting member shall be varied by the same percentage.

2. Notwithstanding the provisions of paragraph 1 of this Article, the Council may, if it finds the market situation so requires, make adjustments among the current and remaining quarterly quotas of exporting members without, however, altering the annual quotas.

Article 38

Price measures

1. The Council shall establish a system of indicator prices which shall provide for a daily composite indicator price.

2. On the basis of such a system, the Council may establish price ranges and price differentials for the principal types and/or groups of coffee and a composite price range.

3. In establishing and adjusting any price range for the purposes of this Article, the Council shall take into consideration the prevailing level and trend of coffee prices including the influence thereon of:

— the levels and trends of consumption and production as well as stocks in importing and exporting countries,

— changes in the world monetary system, the trend of world inflation or deflation, and

— any other factors which might affect the achievement of the objectives set out in this Agreement.

The Executive Director shall supply the data necessary to permit the Council to give due consideration to the foregoing elements.

4. The Council shall make rules concerning the effect of the introduction of quotas or adjustments thereto on contracts entered into prior to such introduction or adjustment.

Article 39

Additional measures for the adjustment of quotas

1. If quotas are in effect, the Council shall be convened in order to establish a system for the *pro rata* adjustment of quotas in response to movements in the composite indicator price, as provided for in Article 38.

2. Such a system shall include provisions regarding price ranges, the number of market days over which counts shall be held and the number and size of adjustments.

3. The Council may also establish a system for increasing quotas in response to the movement of the prices of the principal types and/or groups of coffee.

Article 40

Shortfalls

1. Each exporting member shall declare any anticipated shortfall from its export entitlement in order to permit redistribution in the same coffee year among exporting Members able and prepared to export the amount of shortfalls. 70 % of the quantity declared in accordance with the provisions of this paragraph shall be offered for redistribution in the first instance among other members exporting the same type of coffee in proportion to their basic quotas and 30 % in the first instance to members exporting the other type of coffee also in proportion to their basic quotas.

2. If a member declares a shortfall within the first six months of a coffee year, the annual quota of that member shall, in the following coffee year, be increased by an amount of 30 % of the volume declared and not exported. This amount shall be charged to the annual export entitlements of those exporting members which have accepted the redistribution under the provisions of paragraph 1 of this Article, *pro rata* to their participation in that redistribution.

Article 41

Export entitlement of a member group

If two or more members form a member group in accordance with the provisions of Articles 6 and 7, the basic quotas or the export entitlements, as the case may be, of those members shall be added together and the combined total treated as a single basic quota or a sigle export entitlement for the purposes of this Chapter.

Article 42

Compliance with quotas

1. Exporting members shall adopt the measures required to ensure full compliance with all provisions of this Agreement relating to quotas. In addition to any measures the member itself may take, the Council may require such member to adopt additional measures for the effective implementation of the quota system provided for in this Agreement.

2. Exporting members shall not exceed the annual and quarterly quotas allocated to them.

3. If an exporting member exceeds its quota for any quarter, the Council shall deduct from one or more of its subsequent quotas a quantity equal to 110 % of that excess.

4. If an exporting member for the second time exceeds its quarterly quota, the Council shall make the same deduction as that provided for in paragraph 3 of this Article.

5. If an exporting member for a third or subsequent time exceeds its quarterly quota, the Council shall make the same deduction as provided for in paragraph 3 of this Article and the voting rights of the member shall be suspended until such time as the Council decides whether to exclude such member from the Organization under the provisions of Article 66.

6. The deductions provided for in paragraphs 3, 4 and 5 of this Article shall be deemed to be shortfalls for the purposes of Article 40 (1).

7. The Council shall apply the provisions of paragraphs 1 to 5 of this Article as soon as the necessary information is available.

Article 43

Certificates of origin and re-export

1. Every export of coffee by a Member shall be covered by a valid certificate of origin. Certificates of origin shall be issued, in accordance with rules established by the Council, by a qualified agency chosen by the member and approved by the Organization.

2. If quotas are in effect, every re-export of coffee by a member shall be covered by a valid certificate of re-export. Certificates of re-export shall be issued, in accordance with rules established by the Council, by a qualified agency chosen by the member and approved by the Organization, and shall certify that the coffee in question was imported in accordance with the provisions of this Agreement.

3. The rules referred to in this Article shall contain provisions which will permit their application to groups of importing members forming a customs union.

4. The Council may make rules governing the printing, validation, issuing and use of certificates and may adopt measures to issue coffee export stamps against payment of a fee to be determined by the Council. The affixing of such stamps to certificates of origin may be one of the means prescribed for the validation of such certificates. The Council may make similar arrangements for the validation of other forms of certificates and for the issuing of other forms of coffee stamps on conditions to be determined.

5. Each member shall notify the Organization of the government or non-government agency which is to perform the functions specified in paragraphs 1 and 2 of this Article. The Organization shall specifically approve a non-government agency upon submission by the member of satisfactory evidence of the agency's ability and willingness to fulfil the Member's responsibilities in accordance with the rules and regulations established under the provisions of this Agreement. The Council may at any time, for cause, declare a particular non-government agency to be no longer acceptable to it. The Council shall, either directly or through an internationally recognized world-wide organization, take all necessary steps so that at any time it will be able to satisfy itself that all forms of certificate are being issued and used correctly and to ascertain the quantities of coffee which have been exported by each member.

6. A non-government agency approved as a certifying agency under the provisions of paragraph 5 of this Article shall keep records of the certificates issued and the basis for their issue, for a period of not less than four years. In order to obtain approval as a certifying agency under the provisions of paragraph 5 of this Article, a non-government agency must previously agree to make such records available for examination by the Organization.

7. If quotas are in effect members shall, subject to the provisions of Article 44 and those of paragraphs 1 and 2 of Article 45, prohibit the import of any

shipment of coffee which is not accompanied by a valid certificate in the appropriate form issued in accordance with rules established by the Council.

8. Small quantities of coffee in such forms as the Council may determine, or coffee for direct consumption on ships, aircraft and other international carriers, shall be exempt from the provisions of paragraphs 1 and 2 of this Article.

Article 44

Exports not charged to quotas

1. As provided for in Article 29, exports to countries not members of this Agreement shall not be charged to quotas. The Council may make rules governing, *inter alia,* the conduct and supervision of this trade, the treatment of, and the penalties for, diversions and re-exports from non-member to member countries and the documents required to cover exports to both member and non-member countries.

2. Exports of coffee beans as raw material for industrial processing for any purposes other than human consumption as a beverage or foodstuff shall not be charged to quotas, provided that the Council is satisfied from information supplied by the exporting member that the coffee beans are in fact used for such other purposes.

3. The Council may, at the request of an exporting member, decide that exports of coffee made by that member for humanitarian or other non-commercial purposes shall not be charged to its quota.

Article 45

Regulation of imports

1. To prevent non-member countries from increasing their exports at the expense of exporting members, each member shall, whenever quotas are in effect, limit its annual imports of coffee from non-member countries which were not members of the International Coffee Agreement 1968 to an amount equal to the annual average of its imports of coffee from non-member countries either from calendar year 1971 to calendar year 1974 inclusive, or from calendar year 1972 to calendar year 1974 inclusive.

2. Whenever quotas are in effect, members shall also limit their annual imports of coffee from each non-member which was a member of the International Coffee Agreement 1968 or the International Coffee Agreement 1968 as Extended to a quantity not greater than a percentage of the average annual imports from that non-member during coffee years 1968/69 to 1971/72. Such percentage shall correspond to the proportion which the fixed part bears to the global annual quota, under the provisions of Article 35 (1), at the time when quotas come into effect.

3. The Council may suspend or vary these quantitative limitations if it finds such action necessary for the purposes of this Agreement.

4. The obligations established in the preceding paragraphs of this Article shall not derogate from any conflicting bilateral or multilateral obligations which importing members have entered into with non-member countries prior to the entry into force of this Agreement, provided that any importing member which has such conflicting obligations shall carry them out in such a way as to minimize any conflict with the obligations established in the preceding paragraphs. Such member shall take steps as soon as possible to bring its obligations into harmony with the provisions of paragraphs 1 and 2 of this Article and shall inform the Council of the details of the conflicting obligations as well as of the steps taken to minimize or eliminate the conflict.

5. If an importing member fails to comply with the provisions of this Article the Council may suspend both its voting rights in the Council and its right to have its votes cast in the Board.

CHAPTER VIII

OTHER ECONOMIC PROVISIONS

Article 46

Measures related to processed coffee

1. Members recognize the need of developing countries to broaden the base of their economies

through, *inter alia*, industrialization and the export of manufactured products, including the processing of coffee and the export of processed coffee.

2. In this connection, members shall avoid the adoption of governmental measures which could cause disruption to the coffee sector of other members.

3. Should a member consider that the provisions of paragraph 2 of this Article are not being complied with, it should consult with the other members concerned, having due regard to the provisions of Article 57. The members concerned shall make every effort to reach amicable settlement on a bilateral basis. If these consultations do not lead to a mutually satisfactory solution, either party may bring the matter before the Council for consideration under the provisions of Article 58.

4. Nothing in this Agreement shall prejudice the right of any Member to take measures to prevent or remedy disruption to its coffee sector by imports of processed coffee.

Article 47

Promotion

1. Members undertake to encourage the consumption of coffee by every possible means. To achieve this purpose, a Promotion Fund shall be established with the objectives of promoting consumption in importing countries by all appropriate means without regard to origin, type or brand of coffee, and of achieving and maintaining the highest quality and purity of the beverage.

2. The Promotion Fund shall be administered by a committee. The membership of the fund shall be limited to members which contribute financially to the fund.

3. The fund shall be financed during coffee years 1976/77 and 1977/78 by a compulsory levy on coffee export stamps or equivalent export authorizations, payable by exporting members with effect from 1 October 1976. Such levy shall be five U.S. cents per bag for members listed in Annex 1 having initial annual export quotas of less than 100 000 bags; 10 U.S. cents per bag for members listed in Annex 1 having initial annual export quotas of 100 000 bags or more but less than 400 000 bags, and 25 U.S. cents per bag for all other exporting members. The fund may also be financed by voluntary contributions from other members on terms to be approved by the committee.

4. At any time, the committee may decide to collect a compulsory levy in the third and subsequent coffee years if additional resources are necessary to comply with commitments undertaken in accordance with paragraph 7 of this Article. It may further decide to receive contributions of other members on terms it shall approve.

5. The resources of the fund shall be used mainly to finance promotion campaigns in importing member countries.

6. The fund may sponsor research and studies related to the consumption of coffee.

7. Importing members, or trade associations in importing member countries acceptable to the committee, may present proposals for campaigns for the promotion of coffee. The fund may provide resources to finance up to 50 % of the cost of such campaigns. Whenever a campaign is agreed upon, the percentage contribution of the committee to the campaign shall remain unaltered. The campaigns may be for a period of more than one year but not more than five years.

8. The payment referred to in paragraph 3 of this Article shall be made against the delivery of coffee export stamps or equivalent export authorizations. The rules for the application of a system of certificates of origin, under the provisions of Article 43, shall incorporate provisions for the payment of the levy referred to in paragraph 3 of this Article.

9. The levy referred to in paragraphs 3 and 4 of this Article shall be payable in U.S. dollars to the Executive Director, who shall deposit the funds derived therefrom in a special account to be designated the Promotion Fund Account.

10. The committee shall control all funds in the Promotion Fund. As soon as possible after the close of each financial year, an independently audited statement of the receipts and expenditures of the Promotion Fund during that financial year shall be presented to the committee for approval. The audited accounts as approved by the committee shall be forwarded to the Council for information only.

11. The Executive Director shall be the chairman of the committee and shall report periodically to the Council on the activities of the committee.

12. The administrative expenses necessary to carry out the provisions of this Article and those relating to promotion activities shall be charged to the Promotion Fund.

13. The committee shall establish its own by-laws.

Article 48

Removal of obstacles to consumption

1. Members recognize the utmost importance of achieving the greatest possible increase of coffee consumption as rapidly as possible, in particular through the progressive removal of any obstacles which may hinder such increase.

2. Members recognize that there are at present in effect measures which may to a greater or lesser extent hinder the increase in consumption of coffee, in particular:

(a) import arrangements applicable to coffee, including preferential and other tariffs, quotas, operations of Government monopolies and official purchasing agencies, and other administrative rules and commercial practices;

(b) export arrangements as regards direct or indirect subsidies and other administrative rules and commercial practices; and

(c) internal trade conditions and domestic legal and administrative provisions which may affect consumption.

3. Having regard to the objectives stated above and to the provisions of paragraph 4 of this Article, Members shall endeavour to pursue tariff reductions on coffee or to take other action to remove obstacles to increased consumption

4. Taking into account their mutual interest, members undertake to seek ways and means by which the obstacles to increased trade and consumption referred to in paragraph 2 of this Article may be progressively reduced and eventually, wherever possible, eliminated, or by which the effects of such obstacles may be substantially diminished.

5. Taking into account any commitments undertaken under the provisions of paragraph 4 of this Article, members shall inform the Council annually of all measures adopted with a view to implementing the provisions of this Article.

6. The Executive Director shall prepare periodically a survey of the obstacles to consumption to be reviewed by the Council.

7. The Council may, in order to further the purposes of this Article, make recommendations to members which shall report as soon as possible to the Council on the measures adopted with a view to implementing such recommendations.

Article 49

Mixtures and substitutes

1. Members shall not maintain any regulations requiring the mixing, processing or using of other products with coffee for commercial resale as coffee. Members shall endeavour to prohibit the sale and advertisement of products under the name of coffee if such products contain less than the equivalent of 90 % green coffee as the basic raw material.

2. The Council may request any Member to take the steps necessary to ensure observance of the provisions of this Article.

3. The Executive Director shall submit to the Council a periodic report on compliance with the provisions of this Article.

Article 50

Production policy

1. To facilitate the achievement of the objective set out in Article 1 (1), exporting Members undertake to use their best endeavours to adopt and to implement a production policy.

2. The Council may establish procedures for coordinating the production policies referred to in paragraph 1 of this Article. These procedures may include appropriate measures for, or encouragment of, diversification, together with the means whereby members may obtain both technical and financial assistance.

3. The Council may establish a contribution payable by exporting members which shall be used to permit the Organization to carry out appropriate technical studies for the purpose of assisting exporting members to adopt the measures necessary to pursue an adequate production policy. Such contribution shall not exceed two U.S. cents per bag exported to importing member countries and shall be payable in convertible currency.

Article 51

Policy relative to coffee stocks

1. To complement the provisions of Chapter VII and of Article 50, the Council shall, by a distributed two-thirds majority vote, establish a policy relating to coffee stocks in producing member countries.

2. The Council shall adopt measures to ascertain annually the volume of coffee stocks in the hands of individual exporting members in accordance with the provisions of Article 35. The members concerned shall facilitate this annual survey.

3. Producing members shall ensure that adequate facilities exist in their respective countries for the proper storage of coffee stocks.

4. The Council shall undertake a study of the feasibility of supporting the objectives of this Agreement by an international stock arrangement.

Article 52

Consultation and cooperation with the trade

1. The Organization shall maintain close liaison with appropriate non-governmental organizations concerned with international commerce in coffee, and with experts in coffee matters.

2. Members shall conduct their activities within the framework of this Agreement in a manner consonant with established trade channels and shall refrain from discriminatory sales practices. In carrying out these activities they shall endeavour to take due account of the legitimate interests of the coffee trade.

Article 53

Information

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

(a) statistical information on world production, prices, exports and imports, distribution and consumption of coffee; and

(b) in so far as is considered appropriate, technical information on the cultivation, processing and utilization of coffee.

2. The Council may require members to furnish such information as it considers necessary for its operations, including regular statistical reports on coffee production, production trends, exports and imports, distribution, consumption, stocks, prices and taxation, but no information shall be published which might serve to identify the operations of persons or companies producing, processing or marketing coffee. Members shall furnish information requested in as detailed and accurate a manner as is practicable.

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

4. In addition to the measures provided for in paragraph 3 of this Article, the Executive Director may, after giving due notice and unless the Council decides otherwise, withhold the release of coffee stamps or other equivalent export authorizations as provided for in Article 43.

Article 54

Studies

1. The Council may promote studies concerning the economics of coffee production and distribution, the impact of governmental measures in producing and consuming countries on the production and consumption of coffee, the opportunities for expansion of coffee consumption for traditional and possible new uses and the effects of the operation of this Agreement on producers and consumers of coffee, including their terms of trade.

2. The Organization may study the practicability of establishing minimum standards for exports of coffee from producing members.

Article 55

Special fund

1. A special fund shall be established to permit the Organization to adopt and to finance the additional

measures required to ensure that the relevant provisions of this Agreement can be implemented with effect from its entry into force or as close to that date as possible.

2. Payments to the fund shall consist of a levy of two U.S. cents on each bag of coffee exported to importing members, payable by exporting members with effect from the entry into force of this Agreement, unless the Council decides to decrease or suspend such levy.

3. The levy referred to in paragraph 2 of this Article shall be payable in U.S. dollars to the Executive Director against the delivery of coffee export stamps or equivalent export authorizations. The rules for the application of a system of certificates of origin under the provisions of Article 43 shall incorporate provisions for the payment of this levy.

4. Subject to the approval of the Council, the Executive Director shall be authorized to expend monies from the fund to meet the costs of introducing the system of certificates of origin referred to in Article 43, the expenditures involved in the verification of stocks required under the provisions of paragraph 2 of Article 51 and the costs of the improvements in the system for the collection and transmission of statistical information referred to in Article 53.

5. To the extent possible, though separately from the administrative budget, the fund shall be managed and administered in a manner similar to the administrative budget and shall be subject to an independent annual audit as required for the accounts of the Organization under the provisions of Article 27.

Article 56

Waiver

1. The Council may, by a distributed two-thirds majority vote, relieve a Member of an obligation, on account of exceptional or emergency circumstances, *force majeure* constitutional obligations or international obligations under the United Nations Charter for territories administered under the trusteeship system.

2. The Council, in granting a waiver to a member, shall state explicitly the terms and conditions on which and the period for which the member is relieved of such obligation.

3. The Council shall not consider a request for a waiver of quota obligations on the basis of the existence in a member country, in one or more years, of an exportable production in excess of its permitted exports or which is the consequence of the member having failed to comply with the provisions of Articles 50 and 51.

CHAPTER IX

CONSULTATIONS, DISPUTES AND COMPLAINTS

Article 57

Consultations

Each member shall accord sympathetic consideration to, and shall afford adequate opportunity for, consultation regarding such representations as may be made by another member with respect to any matter relating to this Agreement. In the course of such consultation, on request by either party and with the consent of the other, the Executive Director shall establish an independent panel which shall use its good offices with a view to conciliating the parties. The costs of the panel shall not be chargeable to the Organization. If a party does not agree to the establishment of a panel by the Executive Director, or if the consultation does not lead to a solution, the matter may be referred to the Council in accordance with the provisions of Article 58. If the consultation does lead to a solution, it shall be reported to the Executive Director who shall distribute the report to all members.

Article 58

Disputes and complaints

1. Any dispute concerning the interpretation or application of this Agreement which is not settled by negotiation 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 the provisions of paragraph 1 of this Article, a majority of members or members holding no less than one-third of the total votes, may require the Council, after discussion, to seek the opinion of the advisory panel referred to in paragraph 3 of this Article on the issues in dispute before giving its decision.

3. (a) Unless the Council unanimously agrees otherwise, the panel shall consist of:

(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) Persons from countries whose Governments are contracting parties to this Agreement shall be eligible to serve on the advisory panel.

(c) Persons appointed to the advisory panel shall act in their personal capacities and without instructions from any Government.

(d) The expenses of the advisory panel shall be paid by the Organization.

4. The opinion of the advisory panel and the reasons therefor shall be submitted to the Council which, after considering all the relevant information, shall decide the dispute.

5. The Council shall rule on any dispute brought before it within six months of submission of such dispute for its consideration.

6. Any complaint that any member has failed to fulfil its obligations under this Agreement shall, at the request of the member making the complaint, be referred to the Council which shall make a decision on the matter.

7. No member shall be found to have been in breach of its obligations under this Agreement except by a distributed simple majority vote. Any finding that a Member is in breach of its obligations under this Agreement shall specify the nature of the breach.

8. If the Council finds that a member is in breach of its obligations under this Agreement, it may, without prejudice to other enforcement measures provided for in other Articles of this Agreement, by a distributed two-thirds majority vote, suspend such member's voting rights in the Council and its right to have its votes cast in the Board until it fulfils its obligations, or the Council may decide to exclude such Member from the Organization under the provisions of Article 66.

9. A Member may seek the prior opinion of the Executive Board in a matter of dispute or complaint before the matter is discussed by the Council.

CHAPTER X

FINAL PROVISIONS

Article 59

Signature

This Agreement shall be open for signature at United Nations Headquarters from 31 January 1976 until and including 31 July 1976 by Contracting Parties to the International Coffee Agreement 1968 as Extended by Protocol and Governments invited to the sessions of the International Coffee Council convened for the purpose of negotiating the International Coffee Agreement 1976.

Article 60

Ratification, acceptance, approval

1. This Agreement shall be subject to ratification, acceptance or approval by the signatory Governments in accordance with their respective constitutional procedures.

2. Except as provided for in Article 61, instruments of ratification, acceptance or approval shall be deposited with the Secretary-General of the United Nations not later than 30 September 1976. However, the Council may grant extensions of time to signatory Governments which are unable to deposit their instruments by that date.

Article 61

Entry into force

1. This Agreement shall enter into force definitively on 1 October 1976 if, by that date, Governments representing at least 20 exporting members holding at least 80% of the votes of the exporting Members and at least 10 importing Members holding at least 80% of the votes of the importing members, as set out in Annex 2, have deposited their instruments of

ratification, acceptance or approval. Alternatively, it shall enter into force definitively at any time after 1 October 1976, if it is provisionally in force in accordance with the provisions of paragraph 2 of this Article and these percentage requirements are satisfied by the deposit of instruments of ratification, acceptance or approval.

2. This Agreement may enter into force provisionally on 1 October 1976. For this purpose, a notification by a signatory Government or by any other contracting party to the International Coffee Agreement 1968 as Extended by Protocol containing an undertaking to apply this Agreement provisionally and to seek ratification, acceptance or approval in accordance with its constitutional procedures as rapidly as possible, which is received by the Secretary-General of the United Nations not later than 30 September 1976, shall be regarded as equal in effect to an instrument of ratification, acceptance or approval. A Government which undertakes to apply this Agreement provisionally pending the deposit of an instrument of ratification, acceptance or approval shall be regarded as a provisional party thereto until it deposits its instrument of ratification, acceptance or approval, or until and including 31 December 1976 whichever is the earlier. The Council may grant an extension of the time within which any Government which is applying this Agreement provisionally may deposit its instrument of ratification, acceptance or approval.

3. If this Agreement has not entered into force definitively or provisionally on 1 October 1976 under the provisions of paragraph 1 or 2 of this Article, those Governments which have deposited instruments of ratification, acceptance, approval or accession or made notifications containing an undertaking to apply this Agreement provisionally and to seek ratification, acceptance or approval may, by mutual consent, decide that it shall enter into force among themselves. Similarly, if this Agreement has entered into force provisionally but has not entered into force definitively on 31 December 1976, those Governments which have deposited instruments of ratification, acceptance, approval or accession or made the notifications referred to in paragraph 2 of this Article, may, by mutual consent, decide that it shall continue in force provisionally or enter into force definitively among themselves.

Article 62

Accession

1. The Government of any State member of the United Nations or of any of its specialized agencies may, before or after the entry into force of this Agreement, accede to it upon conditions which shall be established by the Council.

2. Instruments of accession shall be deposited with the Secretary-General of the United Nations. The accession shall take effect upon deposit of the instrument.

Article 63

Reservations

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

Article 64

Extension to designated territories

1. Any Government may, at the time of signature or deposit of an instrument of ratification, acceptance, approval or accession, or at any time thereafter, by notification to the Secretary-General of the United Nations, declare that this Agreement shall extend to any of the territories for whose international relations it is responsible; this Agreement shall extend to the territories named therein from the date of such notification.

2. Any contracting party which desires to exercise its rights under the provisions of Article 5 in respect of any of the territories for whose international relations it is responsible or which desires to authorize any such territory to become part of a member group formed under the provisions of Article 6 or 7, 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.

3. Any contracting party which has made a declaration under the provisions of paragraph 1 of this Article may at any time thereafter, by notification to the Secretary-General of the United Nations, declare that this Agreement shall cease to extend to the territory named in the notification. This Agreement shall cease to extend to such territory from the date of such notification.

4. When a territory to which this Agreement has been extended under the provisions of paragraph 1 of this Article subsequently attains its independence, the Government of the new State may, within 90 days after the attainment of independence, declare

by notification to the Secretary-General of the United Nations that it has assumed the rights and obligations of a contracting party to this Agreement. It shall, as from the date of such notification, become a contracting party to this Agreement. The Council may grant an extension of the time within which such notification may be made.

Article 65

Voluntary withdrawal

Any contracting party may withdraw from this Agreement at any time by giving a written notice of withdrawal to the Secretary-General of the United Nations. Withdrawal shall become effective 90 days after the notice is received.

Article 66

Exclusion

If the Council decides that any member is in breach of its obligations under this Agreement and decides further that such breach significantly impairs the operation of this Agreement, it may, by a distributed two-thirds majority 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, such member shall cease to be a member of the Organization and, if such member is a contracting party, a party to this Agreement.

Article 67

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 the 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 this Agreement under the provisions of Article 69 (2), the Council may determine any settlement of accounts which it finds equitable.

2. A member which has ceased to participate in this Agreement shall not be entitled to any share of the proceds of liquidation or the other assets of the Organization; nor shall it be liable for payment of any part of the deficit, if any, of the Organization upon termination of this Agreement.

Article 68

Duration and termination

1. This Agreement shall remain in force for a period of six years until 30 September 1982, unless extended under the provisions of paragraph 3 of this Article or terminated under the provisions of paragraph 4 of this Article.

2. During the third year of this Agreement, namely the coffee year ending 30 September 1979, contracting parties shall notify the Secretary-General of the United Nations of their intention to continue to participate in this Agreement for the remaining three years of its duration. Any contracting party which, by 30 September 1979, has not made a notification of its intention to continue to participate in this Agreement for the remaining three years of its duration, or any territory which is either a member or a party to a member group on behalf of which such notification has not been made by that date, shall with effect from 1 October 1979 cease to participate in this Agreement.

3. The Council may, at any time after 30 September 1980, by a vote of 58% of the members having not less than a distributed majority of 70% of the total votes, decide either that this Agreement be renegotiated or that it be extended, with or without modification, for such period as the Council shall determine. Any contracting party which by the date on which such renegotiated or extended Agreement enters into force has not made a notification of acceptance of such renegotiated or extended Agreement to the Secretary-General of the United Nations, or any territory which is either a member or a party to a member group on behalf of which such notification has not been made by that date, shall as of that date cease to participate in such Agreement.

4. The Council may at any time, by a vote of a majority of the members having not less than a distributed two-thirds majority of the total votes, decide to terminate this Agreement. Such termination shall take effect on such date as the Council shall decide.

5. Notwithstanding termination of this Agreement, the Council shall remain in being for as long as necessary to carry out the liquidation of the Organization, settlement of its accounts and disposal of its assets and shall have during that period such powers and functions as may be necessary for those purposes.

Article 69

Amendment

1. The Council may, by a distributed two-thirds majority vote, recommend an amendment of this Agreement to the contracting parties. The amendment shall become effective 100 days after the Secretary-General of the United Nations has received notifications of acceptance from contracting parties representing at least 75% of the exporting countries holding at least 85% of the votes of the exporting members, and from contracting parties representing at least 75% of the importing countries holding at least 80% of the votes of the importing members. The Council shall fix a time within which contracting parties shall notify the Secretary-General of the United Nations of their acceptance of the amendment. If, on expiry of such time limit, the percentage requirements for the entry into effect of the amendment have not been met, the amendment shall be considered withdrawn.

2. Any contracting party which has not notified acceptance of an amendment within the period fixed by the Council, or any territory which is either a member or a party to a member group on behalf of which such notification has not been made by that date, shall cease to participate in this Agreement from the date on which such amendment becomes effective.

Article 70

Supplementary and transitional provisions

1. This Agreement shall be considered as a continuation of the International Coffee Agreement 1968 as Extended by Protocol.

2. In order to facilitate the uninterrupted continuation of the International Coffee Agreement 1968 as Extended by Protocol:

(a) All acts by or on behalf of the Organization or any of its organs under the International Coffee Agreement 1968 as Extended by Protocol, in effect on 30 September 1976, whose terms do not provide for expiry on that date, shall remain in effect unless changed under the provisions of this Agreement;

(b) All decisions required to be taken by the Council during coffee year 1975/76 for application in coffee year 1976/77 shall be taken during the last regular session of the Council in coffee year 1975/76 and applied on a provisional basis as if this Agreement had already entered into force.

Article 71

Authentic texts of the agreement

The texts of this Agreement in the English, French, Portuguese and Spanish languages shall all be equally authentic. The originals shall be deposited with the Secretary-General of the United Nations.

In witness whereof the undersigned, having been duly authorized to this effect by their respective Governments, have signed this Agreement on the dates appearing opposite their signatures.

ANNEX 1

Exporting members exporting less than 400 000 bags to importing members

Exporting Member	Initial annual export quota (000 bags) (1)	Number of votes in addition to basic votes (2)
Less than 100 000 bags		
Gabon	25	0
Jamaica	25	0
Congo	25	0
Panama	41	0
Dahomey	33	0
Bolivia	73	0
Ghana	66	0
Trinidad and Tobago	69	0
Nigeria	70	0
Paraguay	70	0
Timor	82	0
Sub total	579	
More than 100 000 bags		
Liberia	100	2
Guinea	127	2
Sierra Leone	180	3
Central African Republic	205	3
Togo	225	4
Rwanda	300	5
Venezuela	325	5
Burundi	360	6
Haiti	360	6
Sub total	2 182	
TOTAL	2 761	

ANNEX 2

Distribution of votes

	Exporting	Importing
TOTAL	1 000	1 000
Australia	—	12
Belgium (*)	—	29
Bolivia	4	—
Brazil	336	—
Burundi	8	—
Cameroon	20	—
Canada	—	32
Central African Republic	7	—
Colombia	114	—
Congo	4	—
Costa Rica	22	—
Cyprus	—	5
Czechoslovakia	—	10
Dahomey	4	—
Denmark	—	23
Dominican Republic	12	—
Ecuador	16	—
El Salvador	35	—
Ethiopia	28	—
Federal Republic of Germany	—	104
Finland	—	22
France	—	87
Gabon	4	—
Ghana	4	—
Guatemala	33	—
Guinea	6	—
Haiti	12	—
Honduras	11	—
India	11	—
Indonesia	26	—
Ireland	—	6
Ivory Coast	49	—
Jamaica	4	—
Japan	—	37
Kenya	17	—
Liberia	4	—
Madagascar	18	—
Mexico	32	—
Netherlands	—	47
New Zealand	—	7
Nicaragua	13	—
Nigeria	4	—
Norway	—	16
Panama	4	—
Papua New Guinea	4	—
Paraguay	4	—
Peru	16	—
Portugal	—	12
Rwanda	6	—
Sierra Leone	6	—
Spain	—	29
Sweden	—	37
Switzerland	—	24
Tanzania	15	—
Timor	4	—
Togo	7	—
Trinidad and Tobago	4	—
Uganda	42	—
United Kingdom	—	51
United States of America	—	392
Venezuela	9	—
Yugoslavia	—	18
Zaire	21	—

(*) Includes Luxembourg.