II

(Acts whose publication is not obligatory)

COUNCIL

COUNCIL DECISION
of 18 December 1984
concerning the conclusion of the International Sugar Agreement, 1984

(85/48/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 the International Sugar Agreement, 1984, in promoting international cooperation for this product, lays down the framework for the negotiation of a new international agreement containing economic provisions with a view to guaranteeing an ordered development of trade with regard to sugar and thus forms part of the common commercial policy;

Whereas the Community should therefore approve that Agreement,

HAS DECIDED AS FOLLOWS:

Article 1

The International Sugar Agreement, 1984, is hereby approved on behalf of the European Economic Community.

The text of the Agreement is attached to this Decision.

Article 2

The President of the Council is hereby authorized to designate the person empowered to sign the Agreement in order to bind the Community.

Article 3

This Decision shall be published in the *Official Journal of the European Communities*.

Done at Brussels, 18 December 1984.

For the Council

The President

P. BARRY

INTERNATIONAL SUGAR AGREEMENT, 1984

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CHAPTER I

OBJECTIVES

Article 1

Objectives

The objectives of the International Sugar Agreement, 1984 (hereinafter referred to as 'this Agreement'), in the light of the terms of resolution 93 (IV) adopted by the United Nations Conference on Trade and Development, are to further international cooperation in sugar matters and, in particular, to provide an appropriate framework for the possible negotiation of a new international sugar agreement with economic provisions.

CHAPTER II

DEFINITIONS

Article 2

Definitions

For the purposes of this Agreement:

1. 'Organization' means the International Sugar Organization referred to in Article 3;

2. 'Council' means the International Sugar Council referred to in Article 3, paragraph 3;

3. 'Member' means a Party to this Agreement;

4. 'exporting Member' means any Member which is listed in Annex A to this Agreement, or which is given the status of an exporting Member upon accession to this Agreement or upon change of category under Article 4, paragraph 3;

5. 'importing Member' means any Member which is listed in Annex B to this Agreement, or which is given the status of an importing Member upon accession to this Agreement or upon change of category under Article 4, paragraph 3;

6. 'special -vote' means a vote requiring at least two-thirds of the votes cast by exporting Members present and voting and at least two-thirds of the votes cast by importing Members present and voting, on condition that these votes are cast by at least half of the number of Members present and voting;

7. 'distributed simple majority vote' means a vote requiring more than half of the total votes of exporting Members present and voting and more than half of the total votes of importing Members present and voting, on condition that these votes are cast by at least half of the number of Members in each category present and voting;

8. 'year' means the calendar year;

9. 'sugar' means sugar in any of its recognized commercial forms derived from sugar cane or sugar beet, including edible and fancy molasses, syrups and any other form of liquid sugar used for human consumption, but does not include final molasses or low-grade types of non-centrifugal sugar produced by primitive methods or sugar destined for uses other than human consumption as food;

10. 'entry into force' means the date on which this Agreement enters into force provisionally or definitively, as provided for in Article 38;

11. 'free market' means the total of net imports of the world market, except those resulting from the operation of the special arrangements as defined in Chapter IX of the International Sugar Agreement, 1977;

12. 'world market' means the international sugar market and includes both sugar traded on the free market and sugar traded under special arrangements as defined in Chapter IX of the International Sugar Agreement, 1977.

CHAPTER III

INTERNATIONAL SUGAR ORGANIZATION

Article 3

Continuation, headquarters and structure of the International Sugar Organization

1. The International Sugar Organization established under the International Sugar Agreement, 1968, and maintained in existence under the International Sugar Agreement, 1973, and the International Sugar Agreement, 1977, shall continue in being for the purpose of administering this Agreement and supervising its operation, with the membership, powers and functions set out in this Agreement.

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

3. The Organization shall function through the International Sugar Council, its Executive Committee and its Executive Director, senior officials and staff.

Article 4

Membership of the Organization

1. Each Party to this Agreement shall be a Member of the Organization.

2. There shall be two categories of Members of the Organization, namely:

(a) exporting Members, and

(b) importing Members.

3. A Member may change its category of membership on such conditions as the Council may establish.

Article 5

Membership by intergovernmental organizations

Any reference in this Agreement to a 'government' or 'governments' shall be construed as including the European Economic Community and any other intergovernmental organization having responsibilities in respect of the negotiation, conclusion and application of international agreements, in particular, commodity agreements. Accordingly, any reference in this Agreement to signature, ratification, acceptance or approval, or to notification of provisional application or to accession shall, in the case of such intergovernmental organizations, be construed as including a reference to signature, ratification, acceptance or approval, or to notification of provisional application, or to accession, by such intergovernmental organizations.

Article 6

Privileges and immunities

1. The Organization shall have legal personality. It shall in particular have the capacity to contract, acquire and dispose of movable and immovable property and to institute legal proceedings.

2. The status, privileges and immunities of the Organization in the territory of the United Kingdom shall continue to be governed by the Headquarters Agreement between the Government of the United Kingdom of Great Britain and Northern Ireland and the International Sugar Organization signed at London on 29 May 1969, with such amendments as may be necessary for the proper functioning of this Agreement.

3. If the seat of the Organization is moved to a country which is a Member of the Organization, that Member shall, as soon as possible, conclude with the Organization an agreement to be approved by the Council relating to the status, privileges and immunities of the Organization, of its Executive Director, senior officials, staff and experts and of representatives of Members while in that country for the purpose of exercising their functions.

4. Unless any other taxation arrangements are implemented under the agreement envisaged in paragraph 3 of this article and pending the conclusion of that agreement, the new host Member shall:

(a) grant exemption from taxation on the remuneration paid by the Organization to its employees, except that such exemption need not apply to its own nationals, and

(b) grant exemption form taxation on the assets, income and other property of the Organization.

5. If the seat of the Organization is to be moved to a country which is not a Member of the Organization, the Council shall, before that move, obtain a written assurance from the government of that country:

(a) that it shall, as soon as possible, conclude with the Organization an agreement as described in paragraph 3 of this article, and

(b) that, pending the conclusion of such an agreement, it shall grant the exemptions provided for in paragraph 4 of this article.

6. The Council shall endeavour to conclude the agreement described in paragraph 3 of this article with the government of the country to which the seat of the Organization is to be moved before transferring the seat.

CHAPTER IV

INTERNATIONAL SUGAR COUNCIL

Article 7

Composition of the International Sugar Council

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

2. Each Member shall have one representative in the Council and, if it so desires, one or more alternates. Furthermore, a Member may appoint one or more advisers to its representative or alternates.

Article 8

Powers and functions of the Council

1. The Council shall exercise all such powers and perform or arrange for the performance of all such functions as are necessary to carry out the provisions of this Agreement or as the Council under the International Sugar Agreement, 1977, may request with regard to liquidation of the Stock Financing Fund established under Article 49 of that Agreement.

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

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

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

Article 9

Chairman and Vice-Chairman of the Council

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

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

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

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

Article 10

Sessions of the Council

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

2. In addition, the Council shall meet in special session whenever it so decides or at the request of:

(a) any five Members;

(b) two or more Members holding collectively 250 votes or more; or

(c) the Executive Committee.

3. Notice of sessions shall be given to Members at least 30 calendar days in advance, except in case of emergency, when such notice shall be given at least 10 calendar days in advance.

4. Sessions shall be held at the headquarters of the Organization unless the Council decides otherwise by special vote. If any Member invites the Council to meet

elsewhere than at the headquarters of the Organization, and the Council agrees so to do, that Member shall pay the additional costs involved.

Article 11

Votes

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

2. No Member shall hold more than 300 votes or fewer than 5 votes.

3. There shall be no fractional votes.

4. The total 1 000 votes of exporting Members shall be distributed among them *pro rata* to the weighted average, in each case, of (a) their net free market exports, (b) their total net exports and (c) their total production. The figures to be used for that purpose shall be, for each factor, the average of the three highest annual figures for the years 1980 to 1983 inclusive. In calculating the weighted average for each exporting Member, a weight of 50 % shall be allocated to the first factor and a weight of 25 % to each of the other two factors.

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

(a) each importing Member shall have that portion of 900 votes which its average annual net imports from the free market for the years 1980 to 1983 inclusive, disregarding the year of its lowest imports from the free market, bear to the total of such average imports from the free market of all importing Members;

(b) each importing Member shall have that portion of 100 votes which its average imports under special arrangements for the years 1980 to 1983 inclusive, disregarding the year of its lowest imports under special arrangements, bear to the total of such average imports under special arrangements of all importing Members.

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

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

Article 12

Voting procedure of the Council

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

2. By informing the Chairman in writing, any exporting Member may authorize any other exporting Member, and any importing Member may authorize any other importing Member, to represent its interests and to cast its votes at any meeting or meetings of the Council. A copy of such authorizations shall be examined by any credentials committee that may be set up under the rules of procedure of the Council.

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

Article 13

Decisions of the Council

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

2. In arriving at the number of votes necessary for any decision of the Council, votes of Members abstaining shall not be reckoned. Where a Member avails itself of the provisions of Article 12, paragraph 2, and its votes are cast at a meeting of the Council, such Member shall, for the purposes of paragraph 1 of this article, be considered as present and voting.

3. All decisions of the Council under this Agreement shall be binding upon Members.

Article 14

Cooperation with other organizations

1. The Council shall make whatever arrangements are appropriate for consultation or cooperation with the United Nations and its organs, in particular UNCTAD, and with the Food and Agriculture Organization and such other specialized agencies of the United Nations and intergovernmental organizations as may be appropriate.

2. The Council, bearing in mind the particular role of UNCTAD in international commodity trade, shall as appropriate keep UNCTAD informed of its activities and programmes of work.

3. The Council may also make whatever arrangements are appropriate for maintaining effective contact with international organizations of sugar producers, traders and manufacturers.

Article 15

Admission of observers

1. The Council may invite any non-member State to attend any of its meetings as an observer.

2. The Council may also invite any of the organizations referred to in Article 14, paragraph 1, to attend any of its meetings as an observer.

Article 16

Quorum for the Council

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

CHAPTER V

EXECUTIVE COMMITTEE

Article 17

Composition of the Executive Committee

1. The Executive Committee shall consist of 10 exporting Members and 10 importing Members, who shall be elected for each year in accordance with Article 18 and may be re-elected.

2. Each member of the Executive Committee shall appoint one representative and may appoint in addition one or more alternates and advisers.

3. The Executive Committee shall elect its Chairman for each year. He shall not have the right to vote and may be re-elected.

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

Article 18

Election of the Executive Committee

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

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

3. The 10 candidates receiving the largest number of votes shall be elected; however, to be elected on the first ballot, a candidate must secure at least 60 votes.

4. If fewer than 10 candidates are elected on the first ballot, further ballots shall be held in which only Members which did not vote for any of the candidates elected shall have the right to vote. In each further ballot, the minimum number of votes required for election shall be successively diminished by five until the 10 candidates are elected.

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

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

7. If the votes deemed received by an elected member would otherwise exceed 300, Members which voted for or assigned their votes to such elected member shall

arrange among themselves for one or more of them to withdraw their votes from that member and assign or reassign them to another elected member so that the votes received by each elected member shall not exceed the limit of 300.

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

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

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

Article 19

Delegation of powers by the Council to the Executive Committee

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

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

(b) appointment of the Executive Director and senior officials under Article 22;

(c) adoption of the administrative budget and assessment of contributions under Article 24;

(d) any request to the Secretary-General of UNCTAD to convene a negotiating conference under Article 31, paragraph 2;

(e) decision on disputes under Article 32;

(f) suspension of voting and other rights of a Member under Article 33, paragraph 3;

(g) exclusion of a Member from the Organization under Article 41;

(h) recommendation of an amendment under Article 43;

(i) extension or termination of this Agreement under Article 44.

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

Article 20

Voting procedure and decisions of the Executive Committee

1. Each member of the Executive Committee shall be entitled to cast the number of votes received by it under Article 18, and cannot divide these votes.

2. Any decisions taken by the Executive Committee shall require the same majority as that decision would require if taken by the Council.

3. Any Member shall have the right of appeal to the Council, under such conditions as the Council may prescribe in its rules of procedure, against any decision of the Executive Committee.

Article 21

Quorum for the Executive Committee

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

CHAPTER VI

EXECUTIVE DIRECTOR, SENIOR OFFICIALS AND STAFF

Article 22

Executive Director, senior officials and staff

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

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

3. The Council, after consulting the Executive Director, shall by special vote appoint the other senior officials of the Organization on such terms as the Council shall determine, having regard to those applying to corresponding officials of similar intergovernmental organizations.

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

5. Neither the Executive Director, nor the senior officials, nor any member of the staff shall have any financial interest in the sugar industry or sugar trade.

6. The Executive Director, senior officials and staff shall not seek or receive instructions regarding their duties under this Agreement from any Member or from any authority external to the Organization. They shall refrain from any action which might reflect on their position as international officials responsible only to the Organization. Each Member shall respect the exclusively international character of the responsibilities of the Executive Director, senior officials and staff and shall not seek to influence them in the discharge of their responsibilities.

CHAPTER VII

FINANCE

Article 23

Expenses

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

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

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

Article 24

Determination of the administrative budget and assessment of contributions

1. During the second half of each year, the Council shall adopt the administrative budget of the Organization for the following year and shall assess the contribution of each Member to that budget.

2. The contribution of each Member to the administrative budget for each year shall be in the proportion which the number of its votes at the time the administrative budget for that year is adopted bears to the total votes of all Members. In assessing contributions, the votes of each Member shall be calculated without regard to the suspension of any Member's voting rights and any redistribution of votes resulting therefrom.

3. The initial contribution of any Member joining the Organization after the entry into force of this Agreement shall be assessed by the Council on the basis of the number of votes to be held by it and the period remaining in the current year as well as for the following year if that Member joins the Organization between the adoption of the budget for, and the beginning of, that year, but assessments made upon other Members shall not be altered. In assessing contributions of Members joining the Organization after the adoption of a budget for a given year or years, the votes of such Members shall be calculated without regard to the suspension of any Member's voting rights and any redistribution of votes resulting therefrom.

4. If this Agreement enters into force more than eight months before the beginning of the first full year of this

Agreement, the Council shall at its first session adopt an administrative budget covering the period up to the commencement of the first full year. Otherwise, the first administrative budget shall cover both the initial period and the first full year.

5. The Council may take such measures as it might deem appropriate when adopting the budget for the first year of this Agreement and for the first year following any extension of this Agreement under Article 44, in order to mitigate the effects on contributions for those years resulting from a possibly limited membership of this Agreement at the time of the adoption of budgets for those years.

Article 25

Payment of contributions

1. Members shall pay their contributions to the administrative budget for each year in accordance with their respective constitutional procedures. Contributions to the administrative budget for each year shall be payable in freely convertible currencies and shall become due on the first day of that year; contributions of Members in respect of the year in which they join the Organization shall be due on the date on which they become Members.

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

3. A Member whose voting rights have been suspended under paragraph 2 of this article shall not be deprived of any of its other rights or relieved of any of its obligations under this Agreement, unless the Council so decides by special vote. It shall remain liable to pay its contribution and to meet any other of its financial obligations under this Agreement.

Article 26

Audit and publication of accounts

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

CHAPTER VIII

GENERAL UNDERTAKINGS OF MEMBERS

Article 27

Undertakings by Members

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

Article 28

Labour standards

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

CHAPTER IX

INFORMATION AND STUDIES

Article 29

Information and studies

1. The Organization shall act as a centre for the collection and publication of statistical information and studies on world production, prices, exports and imports, consumption and stocks of sugar, including both raw and refined sugar as appropriate, and taxes on sugar.

2. Members undertake to make available and to supply within the time which may be prescribed in the rules of procedure all such statistics and information as may be identified in those rules as necessary to enable the Organization to discharge its functions under this

Agreement. Should this become necessary, the Organization shall use such relevant information as may be available to it from other sources. No information shall be published by the Organization which might serve to identify the operations of persons or companies producing, processing or marketing sugar.

Article 30

Sugar Consumption Committee

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

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

(a) the effects on sugar consumption of the use of any form of substitutes for sugar, including both natural and artificial sweeteners;

(b) the relative tax treatment of sugar and other sweeteners or raw materials for the production of the latter;

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

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

(e) ways and means of cooperating with agencies concerned with the expansion of consumption of sugar and related foodstuffs;

(f) research into new uses of sugar, its by-products and the plants from which it is derived;

and shall submit its reports to the Council.

CHAPTER X

PREPARATIONS FOR A NEW AGREEMENT

Article 31

Preparations for a new agreement

1. The Council may study the bases and framework of a new international sugar agreement and report to the Members and make such recommendations as it deems appropriate.

2. The Council may, as soon as it considers appropriate, request the Secretary-General of UNCTAD to convene a negotiating conference.

CHAPTER XI

DISPUTES AND COMPLAINTS

Article 32

Disputes

1. Any dispute concerning the interpretation or application of this Agreement which is not settled among the Members involved shall, at the request of any Member party to the dispute, be referred to the Council for decision.

2. In any case where a dispute has been referred to the Council under paragraph 1 of this article, a majority of Members holding not less than one-third of the total votes may require the Council, after discussion, to seek the opinion of an advisory panel constituted under paragraph 3 of this article on the issue in dispute before giving its decision.

3. (a) Unless the Council decides otherwise by special vote, the panel shall consist of five persons as follows:

(i) two persons, one having wide experience in matters of the kind in dispute and the other having legal standing and experience, nominated by the exporting Members;

(ii) two such persons nominated by the importing Members; and

(iii) a Chairman selected unanimously by the four persons nominated under (i) and (ii) above or, if they fail to agree, by the Chairman of the Council.

(b) Nationals of Members and of non-members shall be eligible to serve on the advisory panel.

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

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

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

Article 33

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

1. Any complaint that a Member has failed to fulfil its obligations under this Agreement shall, at the request of the Member making the complaint, be referred to the Council, which, subject to prior consultation with the Member concerned, shall take a decision on the matter.

2. Any decision by the Council that a Member is in breach of its obligations under this Agreement shall specify the nature of the breach.

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

(a) suspend that Member's voting rights in the Council and in the Executive Committee; and, if it deems it necessary,

(b) suspend further rights of such Member, including that of being eligible for or of holding office in the Council or in any of its committees, until it has fulfilled its obligations; or, if such breach significantly impairs the operation of this Agreement,

(c) take action under Article 41.

CHAPTER XII

FINAL PROVISIONS

Article 34

Depositary

The Secretary-General of the United Nations is hereby designated as the depositary of this Agreement.

Article 35

Signature

This Agreement shall be open for signature at United Nations headquarters from 1 September until 31 December 1984 by any government invited to the United Nations Sugar Conference, 1983.

Article 36

Ratification, acceptance and approval

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

2. Instruments of ratification, acceptance or approval shall be deposited with the depositary not later than 31 December 1984. The Council may, however, grant extensions of time to signatory governments which are unable to deposit their instruments by that date.

Article 37

Notification of provisional application

1. A signatory government which intends to ratify, accept or approve this Agreement, or a government for which the Council has established conditions for accession but which has not yet been able to deposit its instrument, may, at any time, notify the depositary that it will apply this Agreement provisionally either when it enters into force in accordance with Article 38 or, if it is already in force, at a specified date.

2. A government which has notified under paragraph 1 of this article that it will apply this Agreement either when it enters into force or, if it is already in force, at a specified date shall, from that time, be a provisional Member until it deposits its instrument of ratification, acceptance, approval or accession and thus becomes a Member.

Article 38

Entry into force

1. This Agreement shall enter into force definitively on 1 January 1985, or on any date thereafter, if by that date instruments of ratification, acceptance, approval or accession have been deposited on behalf of governments

holding 50 % of the votes of the exporting countries and 50 % of the votes of the importing countries in accordance with the distribution established in Annex A and Annex B to this Agreement, respectively.

2. If, on 1 January 1985, this Agreement has not entered into force in accordance with paragraph 1 of this article, it shall enter into force provisionally if by that date instruments of ratification, acceptance or approval or notifications of provisional application have been deposited on behalf of governments satisfying the percentage requirements of paragraph 1 of this article.

3. If, on 1 January 1985, the required percentages for entry into force of this Agreement in accordance with paragraph 1 or paragraph 2 of this article are not met, the Secretary-General of the United Nations shall invite the governments on whose behalf instruments of ratification, acceptance or approval or notifications of provisional application have been deposited to decide whether this Agreement shall enter into force definitively or provisionally among themselves, in whole or in part, on such date as they may determine. If this Agreement has entered into force provisionally in accordance with this paragraph, it shall subsequently enter into force definitively upon fulfilment of the conditions set out in paragraph 1 of this article without the necessity of a further decision.

4. For a government on whose behalf an instrument of ratification, acceptance, approval or accession or a notification of provisional application is deposited after the entry into force of this Agreement in accordance with paragraphs 1, 2 or 3 of this article, the instrument or notification shall take effect on the date of deposit and, with regard to notification of provisional application, in accordance with the provisions of Article 37, paragraph 1.

Article 39

Accession

This Agreement shall be open to accession by the governments of all States upon conditions established by the Council. Accession shall be effected by the deposit of an instrument of accession with the depositary. Instruments of accession shall state that the government accepts all the conditions established by the Council.

Article 40

Withdrawal

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

2. Withdrawal under this article shall be effective 30 days after the receipt of the notice by the depositary.

Article 41

Exclusion

If the Council finds 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 special vote, exclude such Member from the Organization. The Council shall immediately notify the depositary of any such decision. Ninety days after the date of the Council's decision that Member shall cease to be a Member of the Organization.

Article 42

Settlement of accounts

1. The Council shall determine any settlement of accounts which it finds equitable with a Member which has withdrawn from this Agreement or which has been excluded from the Organization, or has otherwise ceased to be a party to this Agreement. The Organization shall retain any amounts already paid by such Member. Such Member shall be bound to pay any amounts due from it to the Organization.

2. Upon termination of this Agreement, any Member referred to in paragraph 1 of this article shall not be entitled to any share of the proceeds of the liquidation or the other assets of the Organization; nor shall it be burdened with any part of the deficit, if any, of the Organization.

Article 43

Amendment

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

depositary with the information necessary to determine whether the notifications of acceptance received are sufficient to make the amendment effective.

2. Any Member on behalf of which notification of acceptance of an amendment has not been made by the date on which such amendment becomes effective shall as of that date cease to be a party to this Agreement, unless such Member has satisfied the Council that acceptance could not be secured in time owing to difficulties in completing its constitutional procedures and the Council decides to extend for such Member the period fixed for acceptance. Such Member shall not be bound by the amendment before it has notified its acceptance thereof.

Article 44

Duration, extension and termination

1. This Agreement shall remain in force until 31 December 1986, unless extended under paragraph 2 of this article or terminated earlier under paragraph 3 of this article.

2. The Council may, by special vote, extend this Agreement further on a year-to-year basis. Any Member which does not accept any such extension of this Agreement shall so inform the Council and shall cease to be a party to this Agreement from the beginning of the period of extension.

3. The Council may at any time decide, by special vote, to terminate this Agreement with effect from such date and subject to such conditions as it may determine.

4. Upon termination of this Agreement, the Organization shall continue in being for such time as may be required to carry out its liquidation and shall have such powers and exercise such functions as may be necessary for that purpose.

5. The Council shall notify the depositary of any action taken under paragraph 2 or paragraph 3 of this article.

Article 45

Transitional measures

The administrative budget of the Organization for 1985 shall be provisionally approved by the Council under the International Sugar Agreement, 1977, at its last regular session in 1984, subject to final approval by the Council under this Agreement at its first session in 1985.

In witness whereof the undersigned, being duly authorized thereto, have affixed their signatures under this Agreement on the dates indicated.

Done at Geneva, this fifth day of July, one thousand nine hundred and eighty-four, the texts of this Agreement in the Arabic, English, French, Russian and Spanish languages being equally authentic. The authentic Chinese text of this Agreement shall be established by the depositary and submitted for adoption to all signatories and governments which have acceded to this Agreement.

ANNEX A

List of exporting countries and allocation of votes for the purposes of Article 38

Argentina	24	Kenya	5
Australia	87	Madagascar	5
Austria	5	Malawi	5
Barbados	5	Mauritius	8
Belize	5	Mexico	10
Bolivia	5	Mozambique	5
Brazil	110	Nicaragua	5
Cameroon	5	Pakistan	5
Colombia	13	Panama	5
Congo	5	Papua New Guinea	5
Costa Rica	5	Paraguay	5
Cuba	128	Peru	5
Dominican Republic	30	Philippines	51
Ecuador	5	Poland	7
El Salvador	5	Romania	5
Ethiopia	5	Saint Christopher and Nevis	5
European Economic Community	190	South Africa	31
Fiji	12	Sudan	5
Gabon	5	Swaziland	5
Guatemala	11	Thailand	51
Guyana	5	Trinidad and Tobago	5
Haiti	5	Uganda	5
Honduras	5	United Republic of Tanzania	5
Hungary	5	Uruguay	5
Indonesia	5	Venezuela	5
India	39	Yugoslavia	6
Ivory Coast	5	Zimbabwe	7
Jamaica	5		1 000

ANNEX B

List of importing countries and allocation of votes for the purposes of Article 38

Bulgaria	10	Norway	12
Canada	61	Republic of Korea	32
Chile	19	Saudi Arabia	33
Egypt	45	Senegal	5
Finland	8	Spain	5
German Democratic Republic	6	Sri Lanka	16
Iraq	42	Sweden	5
Israel	17	Switzerland	12
Japan	149	Union of Soviet Socialist Republics	270
Lebanon	5	United States of America	216
Morocco	20		1 000
New Zealand	12		