

NEW ARTICLES/ BYELAWS of CHEMEXCIL



Basic Chemicals, Cosmetics & Dyes Export Promotion Council

(Set-up by Ministry of Commerce & Industry, Government. of India)

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ARTICLES / BYE LAWS

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ARTICLES/BYE LAWS

Basic Chemicals, Cosmetics & Dyes Export Promotion Council

1. DEFINITIONS AND INTERPRETATION

1.1 Definitions:

In these articles, unless the context otherwise requires :

- (a) “Act” means the Companies Act, 1956 and includes any statutory modification re-enactment thereof, for the time being in force¹;
- (b) “Article” means an article forming part of these articles;
- (c) “Auditors” means persons appointed as such, for the time-being, by the Council;
- (d) “Chairman” means the Chairman of the Council;
- (e) “Committee of Administration” or “Committee” means the Committee of Administration of the Council constituted as such, under these articles;
- (f) “Council” means the Basic Chemicals, Cosmetics & Dyes Export Promotion Council²;
- (g) “Extraordinary General Meeting” means a extra-ordinary general meeting of the members of the Council ; other than its annual general meeting referred to in article 16.1.

¹ Article 1(1) (a) defining “Act” may be suitably modified if the Council is a registered society.

² Name of the Council to be filled up.

³ Name for definition of ‘extra’ ordinary general meeting to be considered.

- (h) "General Meeting" means a general meeting of the members of the Council;
- (i) "Member" means a member of the Council;
- (j) "Office" means the registered office for the time being, of the Council ;
- (k) "Panel" means a panel of the Council, constituted under these articles;
- (l) "Prescribed" means prescribed by the Committee, by virtue of a power conferred by these articles;
- (m) "Product" means any goods or services in regard to which the Council has been recognized for the time being by the Central Government; under the relevant provisions of the Export-Import Policy of the Central Government as in force for the time being;
- (n) "Regional Committee" means a Regional Committee constituted under these articles;
- (o) "Regional Chairman" means a Regional Chairman holding office under these articles;
- (p) "Rules" means the Rules of the Council for the time being in force, made under these articles or under any enactment for the time being in force;
- (q) "Secretary" means the Secretary of the Council and includes any officer of the Council performing Secretarial functions'
- (r) "Small Scale Industry" means an industry so specified by the Central Government in its policy on the subject, as announced from time to time and tiny and cottage industries so specified in such policy;
- (s) "Vice-Chairman" means Vice-Chairman of the Council.

1.2 Certificate

For the purposes of determining whether an industry is a Small Scale Industry, the SSI Registration Certificate issued by the Directorate of Industries of the State Government shall be conclusive.

1.3 Words defined in the Companies Act

Words and expressions used and not defined in these articles, but defined in the Act, shall have the meanings respectively assigned to them by the Act.

1.4 General Clauses Act to apply

The General Clauses Act, 1897, applies for the interpretation of these articles, as it applies for the interpretation of an Act of Parliament.

2. EXPORT-IMPORT POLICY

2.1 Articles to be subject to Export Import Policy

The provisions of these articles shall be subject to those of the Export-Import Policy, as notified by the Central Government from time to time.

3. CATEGORIES OF MEMBERS AND ELIGIBILITY FOR MEMBERSHIP

3.1 Categories of the members of the Council

The Council shall have the following categories of members, namely:

- a) Associate Members &
- b) Ordinary Members

3.1 Categories of the members of the Council

The Council shall have the following categories of members, namely:

- a) Associate Members
- b) Ordinary Members &
- # c) Registered Members

3.2 Associate Member

A person shall be eligible for admission to the Council as Associate Member, on receiving the Import-Export Code Number from the Director General of Foreign Trade, Government of India, in respect of the product with which the Council is concerned.

3.3. Ordinary Member

In order to be eligible for ordinary member of the Council, a person must satisfy the following requirements, namely:

- (a) He, or the entity represented by him, must have been an Associate Member of the Council for the least three years.

- (b) He or the entity represented by him, must have, to his or its credit, during the three financial years immediately preceding average exports in respect of the product, of not less than the amount mentioned below¹:

- (i) Small Scale Industries : Rs.10 lakhs
- (ii) Others : Rs.25 lakhs

3.3. Ordinary Member

- # (b) He or the entity represented by him, must have, to his or its credit, during the three financial years immediately preceding average exports in respect of the product, of not less than the amount mentioned below¹:**

- (i) Small Scale Industries : Rs.10 lakhs**
- (ii) Others : Rs.25 lakhs**

Provided that for members of the Agarbattis Panel, the above said limits will be as under:

- (i) Small Scale Industries : Rs.5 lakhs**
- (ii) Others : Rs.10 lakhs**

3.4 Registered Member

Any person or organization can become Registered Member of the Council after applying for the same and after paying the prescribed fees.

As per Ministry's letter No.1/6/2003-EP(CAP) dt. 23/9/2004.

¹See also article 8.3 infra

4. ELIGIBILITY FOR ELECTIONS

4.1 Right to vote, etc. confined to ordinary members

Only an ordinary member shall have the right to vote at, or to offer¹ self as a candidate at elections to various positions in the Council.

4.2 Eligibility of ordinary members

A candidate for election to any position in the Council must satisfy the following conditions , namely;

- (a) He or the entity represented by him, must have, to his or its credit, during the one financial year immediately preceding, exports of the products
- * falling under purview of Council** of not less than the amount mentioned below:

- (i) Small Scale Industries : Rs.25 Lakhs
- (ii) Others : Rs. 1 Crore

*** Provided that for Members of Agarbattis Panel, the limits will be as under:**

- (i) Small Scale Industries : Rs. 10 Lakhs**
- (ii) Others : Rs. 20 Lakhs**

- (b) Where a person is standing for election as Chairman or Vice – Chairman or Regional Chairman etc. he or the entity represented by him, must have, to his or its credit, during the one financial year immediately preceding, exports of the products **falling under purview of Council** of not less than rupees 2 crores.

***Add : Candidate should represent the Industry which is member of the Council for the products coming under the purview of Council.**

***(c) Add : Candidate applying for nomination for election should submit Bank Certificate of realization in support of their fulfillment of condition under Para 4.2 (b) wherein products & FOB value of exports are given.**

The company engaged in exports of multiple products should have more than 75% of total exports of the items coming under the purview of the Council and should comply with requirements of para 4.2 (a).

Also members contesting election should be predominantly exporter of the items coming under the purview of the Council.

1. See also article 11.3 infra

*** As per Ministry's letter No.5/18/2009-EP (CAP) dt.14/09/2009**

5. APPLICATION FOR MEMBERSHIP

5.1 Form of Application

- (a) Application for membership of the Council as an ordinary, associate or registered member shall be made to the Committee in the prescribed form. (or form contained in the Schedule¹)

5.1 Form of Application

- (a) **# Application for membership of the Council as an ordinary, associate or registered member shall be made to the Council in the prescribed form.**
- (b) Where no such form is prescribed for the time being, the application may be made by an ordinary letter.
- (c) The application shall, in every case, contain the following particulars:
 - (i) Facts showing eligibility for membership
 - (ii) Whether the applicant is an individual, firm, company, co-operative society or any other type of entity.
 - (iii) Category of membership applied for.

As per Ministry's letter No. 1/6/2003-EP(CAP) dt.23/9/2004

¹ Schedule to be added in suitable form, where the Council considers it appropriate to have a schedule

5.2 Accompaniments.

The application for membership shall be sent to the Secretary, together with:

- (i) a certificate of financial soundness from the applicant's bankers and
- (ii) a cheque for the prescribed entrance fee and annual fee

5.3 Decision on the application

- (a) The * **Council's Secretariat** shall take a decision on the application for membership within three months and its decision shall be final.
- (b) The decision of the ***Council's Secretariat** (whether of acceptance or rejection of the application) shall be communicated by the Secretary to the applicant.

5.4 Commencement of membership

Where the application for membership is accepted by the Committee, the membership of the applicant shall commence from the beginning of the financial year during which the application is accepted.

*** As per Ministry's Letter No.5/18/2009- EP(CAP) dt.14/09/2009.**

6. FEES FOR MEMBERSHIP

6.1 Entrance and annual fees

Member (other than nominated and co-opted members) shall pay such entrance fee and annual fee and any other fee as may be prescribed.

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Member (other than nominated and co-opted members) shall pay such entrance fee and annual fee as may be prescribed by the Committee of Administration.

As per Ministry's letter No. 1/6/2003-EP(CAP) dt.23/9/2004

7. RESIGNATION BY MEMBERS

- (a) A member of the Council may resign, by giving to the Secretary notice in writing of his intention to do so and shall there upon cease to be a member, either immediately or from such date as may mentioned in the notice, in this regard
- (b) A member who has resigned shall nevertheless continue to be liable to the Council for all amounts due from him to the Council and for any other liability, which he might have incurred towards the Council.

8. DISQUALIFICATIONS FOR MEMBERSHIP OF COUNCIL

8.1 Disqualification

A person shall be disqualified for being, or for continuing, as a member of the Council, if:

- a) he is found to be unsound mind by a competent court;
- b) he applies to be adjudicated as, or is adjudicated as an insolvent;
- c) he is convicted by a court of an offence involving moral turpitude and is sentenced, on such conviction, to imprisonment for not less than six months:¹
- d) he or any firm in which he is a partner, or any private company of which he is a Director, commits a violation of section 295 or 299 of the Act ;
- e) he becomes disqualified by an order of the court under section 203 of the Act :
- f) he ceases to be a member of the entity which he represents or such entity ceases to be member of the Council ; or
- g) his name is removed from the register of members under article 8.2

¹See also article 19.1 infra.

8.2 Removal by the Committee

The Committee may, after giving a member reasonable opportunity of hearing, remove the name of that member from the Register of Members, either for a specified period or indefinitely if :-

- a) he has violated any condition for membership;
- b) he has been in arrears in regard to the payment of membership fee or of any other amounts due from him to the Council for more than six months;
- c) he has been guilty of disorderly conduct at meetings of the Council or of the Committee.
- d) he has otherwise been guilty of conduct unbecoming of a member;
- e) he has become disqualified under article 8.1

8.3 Conversion into Associate Membership:

The Committee may, after giving a member reasonable opportunity of hearing, convert the membership of an ordinary member into an associate membership, if his performance as an exporter of the product has, during the financial years immediately preceding been below the average, as mentioned in clause (b) of Article 3.2

8.3 Conversion into Associate Membership :

The Committee may, after giving a member reasonable opportunity of hearing, convert the membership of an ordinary member into an associate membership, if his performance as an exporter of the product has during the financial years immediately preceding been below the average, as mentioned in clause (b) of Article 3.3

As per Ministry's letter No.1/6/2003-EP(CAP) dt. 23/9/2004

9. CONDUCT OF ELECTIONS

9.1 Duty of Council

- a) It shall be the responsibility of the Council to ensure that elections to various posts in the Council are held in time.
- b) Elected members shall automatically retire on completion of their tenure.

9.2 Failure to hold elections

If a Council fails to ensure timely elections as provided in article 9.1 the Central Government may, after giving it a reasonable opportunity of being heard, order a fresh election to be held and may make such arrangements as may be necessary for that purpose.

9.3 Mode of conduction elections

The following matters shall be provided for by rules to be made by the Council, namely:

- a) the tenure of members elected to various posts in the Council (except otherwise provided in these articles);
- b) mode of conducting elections (except as otherwise provided in these articles);

Sr. No.	Details of Nomination	Day/Date
1.	Letter to be issued to the members calling for nomination for election to the CoA	Base date
2.	Last date for submission of nomination	After 21 * days
3.	Last date of withdrawal of Nomination	After 5 * days
4.	Despatch of ballot paper	After 7 * days
5.	Last date of Receipt of Ballot Paper/counting and declaration of results	After 21* days
6.	Issue of circular to all members of the Council informing about the new elected members of the CoA	After 6 * days

Word “working” should be deleted - As per Ministry’s letter No.5/18/2009 –EP (CAP) dt. 14/09/2009

Rules and regulations for conducting Election to the CoA

As per Para 4 - ELIGIBILITY OF ELECTION
9 - CONDUCT OF ELECTIONS
12 - VOTING RIGHTS
27 - CHAIRMAN – VICE-CHAIRMAN
28 - CHAIRMAN OF THE COMMITTEE

10. REPRESENTATION OF FIRM

10.1 Authorisation

- a) Any firm, which is a member of this Council shall by consent of all partners, * **whole time Director/Proprietor whose name is appearing on RCMC “ listed Public Limited Company** authorize any one of its partners to act as its representative at any meeting of the Council, * **or of the Committee.- delete**
- b) In the absence of any such authority in the case of any firm any one partner whole time Director/Proprietor whose name is appearing in RCMC whose name has been registered in the records of the Council shall be entitled to act as a representative of the firm at any meeting of the Council, * **or of the Committee.- delete**
- c) Any Company or Co-operative Society or other Corporation which is a member of this Council shall, by a resolution of its Directors (or any person in the position of Director) authorize any of its Director or any person in the position of Director to act as its representative at any meeting of the Council, * **or of the Committee.- delete**
* **Add: “whose name is appearing on RCMC”**
- d) A Sole Proprietary firm or Hindu Undivided Family firm shall be represented by its Proprietor or Karta, as the case may be.

* **As per Ministry’s letter No.5/18/2009–EP(CAP) dtd.14/09/2009**

- e) A person authorized to represent an entity by or under clause (a), (b), (c) or (d) of this article shall thereupon be entitled to exercise the same rights and powers on behalf of the member whom he represents, as if he were an individual member of the Council, of the same class as the firm, company, society or other corporation, as the case may be.
- f) Any authority granted under clause (a) or (c) of this article shall be effective, only on expiry of seven days from the date on which it is lodged with Council.

11. PRIVILEGES OF MEMBERS

11.1 Ordinary Members

Without prejudice to any other rights conferred on ordinary members by the Memorandum of Association of the Council, but subject to the other provisions of these articles, ordinary members shall have the following rights and privileges, namely:

- (a) right to stand as a candidate and to vote at the election of the members of the Committee and the right to vote on all matters brought before a meeting of the Council, provided there are no arrears of subscription or other dues or charges payable by them to the Council on 1st April in the year of voting;

11.1 Ordinary Members

- a) **right to stand as a candidate and to vote at the election of the members of the Committee and the right to vote on all matters brought before a meeting of the Council, provided there are no arrears of subscription or other dues or charges payable by them to the Council on 30th June in the year of voting;**
- b) right to requisition a meeting as provided in these articles;
- c) right to receive the annual reports of the Committee, on payment of the prescribed fee;
- d) right to receive publications of the Council, on the prescribed conditions; and

As per Ministry's letter No.1/6/2003 – EP (CAP) dtd.23/09/2004

- e) right to use all such facilities as may be made available to such members by the Council from time to time, on the prescribed conditions.

11.2 Associate Members

Without prejudice to any other rights conferred on associate members by the Memorandum of Association, of the Council, such members shall have the following rights and privileges, namely:

- a) right to receive the Annual Reports of the Committee on payment of the prescribed fee;
- b) right to receive the publications of the Council, on prescribed conditions;
- c) right to use all such facilities as may be made available from time to time by Committee, on the prescribed conditions.

11.3 Nominated and Co-opted Members

A nominated or co-opted member shall have no right to vote 1.

1. Cf. Article 4.1

#11.4 Privileges of Members: Registered Members

The registered members shall have the following rights and privileges :-

- a) right to receive the publications of the Council on prescribed conditions;
- b) right to use all such facilities as may be made available from time to time by Committee, on prescribed conditions;
- c) right to receive the Annual Reports of the Committee on payment of the prescribed fees.

As per Ministry' letter No.1/6/2003-EP(CAP) dt. 23/9/2004

12. VOTING RIGHTS

12.1 Persons who can vote

- (a) An ordinary member (or his authorized representative) shall alone be entitled to vote at the general meetings, including annual general meetings and extra ordinary general meetings of the Council.
- (b) Every such member shall have only one vote.
- (c) The Chairman shall have, in addition, a casting vote.

#12.1 Persons who can vote

- (c) The chairman shall have, in addition, a casting vote except for election of the Chairman.

12.2 Chairman's declaration of Result of voting conclusive

- (a) No objection shall be taken to the validity of any vote cast at a meeting, except at the meeting at which such vote was tendered, and every vote, not disallowed at such meeting, shall be deemed to be valid for all the purposes of such meeting.
- (b) The Chairman of a meeting shall be the sole judge of the validity of every vote tendered at such meeting.

As per Ministry' letter No.1/6/2003-EP(CAP) dt. 23/9/2004

13. SUSPENSION OF PRIVILEGES

13.1 Non- payment of subscription

If a member (ordinary or associate) fails to pay his annual subscription 30th April of the year for which it has become due, then :

- a) he shall not be entitled to exercise any right or privilege as such member ; and
- b) the Committee may suspend his membership, which suspension will remain operative until he pays the arrears and the Committee accepts in writing such arrears and restores his membership after revoking his suspension.

#13.1 Non-payment of subscription

If a member (ordinary or associate) fails to pay his annual subscription by 31st July of the year for which it has become due, then:

- a) he shall not be entitled to exercise any right or privilege as such member; and
- b) the Committee may suspend his membership, which suspension will remain operative until he pays the arrears and the Committee accepts in writing such arrears and restores his membership after revoking his suspension.

As per Ministry' letter No.1/6/2003-EP(CAP) dt. 23/9/2004

14. CHANGE IN INTERNAL CONSTITUTION TO BE REPORTED

14.1 Change in Constitution

Where there is a change in the constitution for entity which is a member of the Council or a change in its authorized business activities, the change should be reported by the entity to the Committee within one month.

15. REGISTER OF MEMBERS

15.1 Register of Members:

The Council shall keep a Register of Members (Ordinary, Associate) and enter therein the following particulars of its members, namely:

#15.1 Register of Members:

The Council shall keep a Register of Members (Ordinary, Associate and Registered) and enter therein the following particulars of its members, namely:

- (a) the name, address and occupation of the member;
- (b) the name of the proposing and the seconding member of such member;
- (c) the class of membership of such member;
- (d) the date on which each member was entered in the register;
and
- (e) the date on which he ceased to be a member.

As per Ministry' letter No.1/6/2003-EP(CAP) dt. 23/9/2004

16. MEETING OF THE COUNCIL

16.1 Annual General Meeting

The Council shall hold a general meeting, which shall be styled its annual general meeting in accordance with the provisions of the Act.

16.2 Business

- a) The annual general meeting shall be held at any time during business hours, on a day (not being a public holiday) decided by the Committee.
- b) The notice calling the meeting shall specify it as the annual general meeting.

17. PROCEDURE AT MEETINGS OF THE COUNCIL

17.1 Scope of the articles

Subject to the provisions of the Act and of these articles, the provision of the following articles shall apply; in regard to meetings of the Council.

17.2 Quorum

- a) No business shall be transacted at any general meeting, unless the requisite quorum is present at the commencement of the business.
- b) The quorum for a general meeting shall be one tenth of the total number of ordinary members of the Council

#17.2 Quorum

- b) **The quorum for a general meeting shall be 30 ordinary members of the Council.**

*** After the adjourning the Annual General Meeting for half an hour for want of quorum, the Annual General Meeting will be held in the same place and on same day.**

17.3 Venue

Every general meeting of the Council shall be held in the city in which the registered office of the Council is situated at such place as may be decided by the Committee.

*** As per Ministry's letter No.5/18/2009--EP(CAP) dt.14.09.2009**

17.4 Adjournment

- a) If, after the expiration of half an hour from the time appointed for holding a general meeting of the Council, the quorum¹ is not present then.
 - (i) If the meeting is convened by or upon the requisition of the members it shall stand dissolved;
 - (ii) In any other case, the meeting shall stand adjourned to the same day, after one week (if that day is not a public holiday at the same time and place or to such other day and at such other time and such other place (in the same city) as the Committee may determine.
- b) If even in any such adjourned meeting, quorum is not present at the expiration of half an hour from the time appointed for holding the meeting, then the members present shall constitute the quorum and may transact the business for which the meeting was called.

¹See Article 17.2 (b) for quorum

1a As to adjournment generally see article 17.8 infra

1b See also article 36.1 infra for quorum

17.5 Chairman

- a) Chairman of the Council shall be entitled to take the Chair at every general meeting of the Council.
- b) If there is no Chairman or if he is not present within 15 minutes from the time appointed for holding such meeting or, if he is unwilling to act, the Vice-Chairman of the Council, if present and willing, shall preside.
- c) If the Vice-Chairman is not present and willing, the members of the Committee who are present may choose a member of the Committee to preside at the meeting.
- d) If there be no member of Committee willing to take the Chair, the ordinary members of the Council who are present shall elect one among themselves to be the Chairman of the meeting of the Council.'3'.

2. of Section 174, Companies Act 1956

'3' As to Council meeting see Article 36.2 infra

17.6 Adjournment: general provisions

- a) The Chairman may, with the consent of the meeting, adjourn any meeting from time to time and no business shall be transacted at the adjourned meeting, other than the business left unfinished at the meeting from which the adjournment took place.'4'
- b) No notice of the adjourned meeting shall be necessary unless the Meeting is adjourned for more than ten days. '4a'

17.7 Voting on resolution

- a) At any general meeting a resolution put to vote at the meeting shall be decided on a show of hands, unless a poll by secret ballot is ordered under clause (b) of this article.
- b) A poll by secret ballot (before or on the declaration of the result of voting on any resolution on show of hands)
 - (i) may be ordered to be taken by the Chairman of the meeting, of his own notion.
 - (ii) shall be ordered by the Chairman, if it is demanded by at least, five members having the right to vote on the resolution and present in person or by authorized representative.

'4' Article 17.6(a) to be further considered with reference to requisitioned meetings

4'a' As to adjournment for want of quorum see Article 17.4 infra

17.8 Minutes conclusive

An entry in the Minutes Book of the Council in regard to any resolution moved at a meeting shall be conclusive evidence of the fact that the resolution was carried out:

- a) unanimously: or
 - b) adopted by majority : or
 - c) lost,
- as the case may be.

18. COMMITTEE OF ADMINISTRATION

18.1 Formation of the Committee

- a) The Council shall have a committee of Administration to perform the functions assigned to it by these articles.
- b) The composition of the Committee shall be as provided in Article 27.

19. DISQUALIFICATIONS FOR MEMBERSHIP OF THE COMMITTEE

19.1 Disqualification for membership of the Committed

- a) A person shall be disqualified for being or for continuing as, a member of the Committee, if he becomes subject to any of the disqualifications enumerated in article 8.1 in regard to the membership of the Council.
- b) Before declaring a member to be disqualified, the Committee shall give him reasonable opportunity of being heard and shall follow such procedure as may be prescribed¹.

1.cf . article 8.1

20. VACANCIES

20.1 Casual vacancies

- (a) If there arises a casual vacancy in the office of any member of the Committee (other than Regional Chairmen and members who are nominated or co-opted), it shall be filled up by the Committee. Provided that when the vacancy is for a period not exceeding two months, the Committee may, if it so chooses, decide not to fill up the vacancy, so long as the number of vacancies so left unfilled does not exceed three.
- (b) A person appointed to fill up a casual vacancy shall hold office only for the remainder of the term of the original member.

20.2 Member going out of India

If a member of the Committee (other than a nominated or co-opted member and other than the Regional Chairman) desires to go out of India, the following provisions shall apply:

- a) Such member shall intimate to the Secretary the date of his expected return to India and obtain leave of absence from the Committee for a period not exceeding four months.

- b) If his absence is expected to exceed four months or if he does not obtain leave as above, his seat shall be deemed to fall vacant and the provisions of article 20.1 of these articles shall apply.
- c) If his expected absence does not exceed four months and he has obtained leave as aforesaid, the Committee may appoint such person as it thinks fit to be member of the Committee, for the period of absence of the member going out of India.

21. REGIONAL CHAIRMEN

21.1 Regional Chairmen

- a) Regional Chairmen shall be ex-officio members of the Committee of Administration.
- b) Their election shall be held along with elections to the Committee and shall be regulated by rules to be made by the Committee.

22. REGIONAL COMMITTEES

22.1 Formation of Regional Committee

- a) The Committee of Administration shall form a Regional Committee for each Region, except where the products with which the Council is concerned are mainly confined to one Region.
- b) The geographical extent of such Region shall be determined by the Committee of Administration.
- c) The Regional Committee shall consist of the following:
 - (i) the Regional Chairman, and
 - (ii) such number of other members as may be nominated by the Committee of Administration.

22.2 Functions of Regional Committees

- (1) Each Regional Committee shall function under the general control, superintendence and direction of the Committee:
- (2) Each such Committee shall :
 - a) take steps to stimulate exports of the product from its region; and
 - b) perform such other functions as the Committee may lay down, from time to time;

23. PANELS

23.1 Panels: composition and functions

- (a) The Committee may, from time to time, constitute panels to perform such functions as the Committee may lay down, and may define their composition.

24. FUNCTIONS OF THE COMMITTEE OF ADMINISTRATION

24.1 The Functions of the Committee

Functions of the Committee of Administration shall be as follows :

- (a) to administer the general affairs of the Council;
- (b) to determine what work shall be undertaken by the Council and to arrange for the conduct of such work;
- (c) to receive and deal with reports and recommendations of the various Sub-Committees (where such Sub-Committees have been constituted);
- (d) to arrange for the publication of reports and other documents issued by the Council;
- (e) to collaborate in kindred activities with other Export Promotion Councils in India and similar bodies in foreign countries and with international organizations working in the field;
- (f) to control the finances of the Council;
- (g) to control the staff of the Council;
- (h) to take steps to conduct timely elections to various posts contemplated by these rules;

- (i) from time to time, to make rules for the proper conduct and management of the affairs of the Council including matters which are to be prescribed under these articles;
- (j) to do all such other lawful acts as would be conducive to the interests of the Council.

25. SEAL

25.1 Seal

- a) The Committee shall have a seal and shall provide for its custody;
- b) The seal of the Council shall not be affixed to any document, except under the general or specific authority of the Committee and shall also not be affixed to any instrument except in the presence of two members of the Committee or such other persons as the Committee may appoint for the purpose; and these two members or other persons shall sign every legal instrument to which the seal of the Council is so affixed in their presence.

26. PROCEDURE OF THE COMMITTEE

26.1 Conduct of meetings of the Committee

- a) The Chairman of the Council shall, when present, preside at all meetings of the Committee;
- b) If the Chairman is not present at any meeting of the Committee, the Vice-Chairman shall preside at the meeting.
- c) In the absence of the Chairman and Vice-Chairmen, the members of the Committee present at the meeting shall elect one amongst themselves to be the Chairman of that particular meeting;¹
- d) At least four meetings of the Committee shall be held every year;
- e) The Chairman may himself require the Secretary to call a meeting of the Committee at any time:
- f) If a requisition in writing is made to the Chairman by not less than one-fifth of the members of Committee having voting rights on the date of requisition but with a minimum of three, the Chairman shall require the Secretary to call a meeting of the Committee within a reasonable time, which shall not exceed 15 days.

1. As to Council compare article 17.5

- g) Not less than seven clear day's notice of every meeting of the Committee shall be given to each member of the Committee who shall, for the time being, be in India.
- h) At any meeting of the Committee, one third of the total strength of the Committee (as then constituted) shall be the quorum.¹
- i) Each member of the Committee, including the Chairman shall have one vote and in case of tie, the Chairman shall, in addition to his own vote, have a casting vote.
- j) There shall be no proxy at meetings of the Committee.
- k) The Committee shall meet at such times, as they may be considered advisable, and may make such rules, as are considered necessary, as to the summoning and holding of the meetings of the Committee, and for the transaction of business at such meetings.
- l) The record of the proceedings of the Committee shall be open for examination by the members of the Committee.

1. As to quorum for Council Meetings see art.36.1

27. CHAIRMAN, VICE-CHAIRMAN, ETC. AND THE COMPOSITION OF THE COMMITTEE.

27.1 Chairman's term of office

The Chairman shall hold office for a period of two years and:

- a) shall retire accordingly; and
- b) shall not be eligible for re-election (immediately) at the next election.

#The Chairman shall hold office for a period of two years and

- (a) shall retire accordingly, and**
- (b) shall be eligible for re-election as CoA Member at the next election or as Chairman after a gap of two years**

27.2 Vice-Chairman of the Committee

- a) There shall be one Vice-Chairman who shall be elected by the Committee for a term of two years;
- b) On completion of his term of two years, Vice-Chairman shall be endorsed by the Committee to succeed the Chairman unless he is unwilling to accept Chairmanship or he has incurred any of the disqualifications enumerated in article 8.1 regard to membership of the Council.

The Senior Vice-Chairman will automatically succeed the Chairman after the expiry of Chairman's term of two years.

As per Ministry's letter No. 1/6/2003-EP(CAP) dated 23/9/2004

27.3. Composition of the Committee

(1) The Committee of Administration shall have the following members:

- (a) elected members with a minimum of ten and maximum of twenty (including the Regional Chairman).

#(1) The Committee of Administration shall have the following members:

- (a) elected members with a minimum of ten and maximum of thirty (including the Regional Chairman)**

- (b) nominated members not exceeding three in number.

(2) Subject to the provisions of clause (1), the number of members of the Committee shall be laid down by rules made by the Committee.

27.4 Reservation

- (a) At least one third of the seats for the elected members of the Committee shall be reserved for representatives of small-scale industries.

- (b) In addition, at least one third of the seats for elected members of the Committee shall be reserved for exporters who fall within the category of export houses, trading houses, star-trading houses, and super star trading houses for the purposes of the Export-Import Policy for the time being in force or who have for the time being similar status under the said policy.

#As per Ministry's letter No.1/6/2003-EP(CAP) dt. 23.09.2004.

- (c) Where any seat reserved under clause(a) or (b) of this article cannot be filled up by candidate of that reserved category, that seat shall be deemed to be unreserved.

27.5 Co-opted members

The Committee may co-opt such members, as it considers necessary for the efficient conduct of its business in relation to specific types of activities.

27.6 Certain further provisions as to nominated members

- (a) The term of office of members of the Committee who are nominated by the Central Government shall be co-terminus with the term of the Committee:

Provided that, if a member is nominated during the term of the Committee his term of office shall be such as the Central Government may specify.²

- (b) The Central Government may, at any time, require such a nominee to relinquish his office and may appoint another person in his place.

² to be checked

27.7 Retirement of elected members

- (a) One third of the elected members of the Committee shall automatically retire on the completion of two years of their term, but shall be eligible for re-election.
- (b) The names of the members who shall retire on the expiry of the first and the second term (of two years each) respectively shall be determined by lot³.

27.8 Elections to the Committee and Returning Officer

- (a) Elections to the Committee (in respect of seats of elected members falling vacant) shall be conducted every two years, well before the expiry of the term of the retiring members.
- (b) The Committee shall appoint a returning officer for conducting elections.

27.9 Rules

Rules made by the Committee shall make provisions regarding the elections to the offices of the Chairman and Vice –Chairman, on matters not provided for these articles.

3 to be checked by Commerce Ministry

28. CHAIRMAN OF THE COMMITTEE

28.1 Committee Chairman

- (a) The Chairman of the Council shall ordinarily be the Chairman of the Committee of the Council and shall be responsible for the proper functioning of the Council.

29. VICE-CHAIRMAN

29.1 Vice-Chairman

- (a) The Vice-Chairman, shall, in the absence of the Chairman, have the power to perform the duties of the Chairman.
- (b) The Vice-Chairman may also perform any other functions that may be entrusted to him by the Chairman.

30. REMUNERATION

30.1 No right to remuneration

Members of the Committee shall not be entitled to any remuneration¹ for attending its meeting or for any other function performed by them as such members.

¹ As to Council members. See article 34.4 infra.

31. POWER OF THE COMMITTEE

31.1 Powers of management

- (a) The Committee shall be the Managing Body of the Council and, in addition to the powers and authorities conferred by statute or by these articles, may exercise all such powers and do all such acts and things as shall, by statute or by these articles, be directed or authorized to be done by the Council in a general meeting.
- (b) Such acts of the Committee as are not regulated by statute or by these articles, shall be subject to such regulations or directions as may, from time to time, be decided upon or given at any annual or extraordinary general meeting of the Council.

Provided that no such regulation or direction shall invalidate any prior act of the Committee which would have been valid, if the regulation or direction had not been made or given.

32. RESOLUTION BY CIRCULATION

32.1 Circulation

- (a) Any business which may be necessary for the Committee to transact may, if the Chairman so directs, be carried out by circulation of papers among all its members; and any resolution so circulated and approved by the majority of such members shall be effectual and binding, as if the resolution had been passed at meeting of the Committee, provided that at least the number of members who constitute the quorum of the Committee have recorded their views on the resolution.
- (b) When any business is so referred by circulation to the members of the Committee, a period of not less than seven clear days shall be allowed for the receipt of replies from such members, such period being reckoned from the date on which the notice of the business is issued.
- (c) if a resolution is circulated, the result of the circulation, shall be communicated to all members of the Committee present in India and shall be recorded in the minutes of the next meeting of the Committee.

**33. EXECUTIVE DIRECTOR, SECRETARY, OFFICERS AND
OTHER EMPLOYEES.**

33.1 Executive Director

- (a) There shall be an Executive Director of the Council, who shall be under the control and direction of the Committee and shall be in overall charge of the administration of the Council; and shall supervise the work of all officers of the Council,
- (b) If necessary, the Council may have a Secretary, who shall however work under the administrative control of the Executive Director¹.

33.2 Secretary if appointed

- (a) The Secretary shall have charge of all correspondence and shall keep an account of the funds of the Council and of funds connected with or in any way controlled by, the Council.
- (b) He shall keep accurate minutes of all the meetings of the Council and of the Committees.
- (c) He shall take proper care of all assets belonging to the Council.

¹ Provision regarding Executive Director may be deleted, where not required.

- (d) He shall give notice to members of all meetings of the Council or the Committee.
- (e) He shall duly notify members of their appointment, shall countersign all cheques signed by the Chairman or by any member or members of the Committee duly authorized in this behalf and shall collect all moneys due to the Council.
- (f) He shall prepare an Annual Report of the Council.
- (g) He shall generally perform all such functions as are incidental to his office or as may be assigned to him by the Committee or Executive Director from time to time.

33.3 Officers

The officers of the Council, including the Secretary (if appointed), shall devote themselves entirely to such business and affairs of the Council as may be assigned to them by the competent authority.

33.4 Employees (rules regarding)

- (1) The Committee may, in respect of all employees of the Council make rules to regulate the following matters namely:
 - (a) Conditions of service:
 - (b) Appointment, Promotion and Dismissal:

- (c) Grant of pay, leave, allowances, pensions, gratuities and compassionate allowances:

Provided that the grant of leave and allowances to Government servants whose services have been lent or transferred to the Council shall be decided with the previous approval of the Government officer competent to sanction his transfer to the Council.

- (d) Payment of traveling allowances; and
- (e) The establishment and maintenance of a Provident Fund and other funds for the welfare of the employees.

33.5 Internal resources

At least 50 percent of the internal resources of the Council excepting those derived from Government grants shall be utilized for development activities like market studies, dissemination of trade information, buyer-seller meets, etc.

34. GENERAL MEETINGS

34.1 General Meetings of the Council

- (a) A general meeting of the Council shall be held within eighteen months of the incorporation of the Council and thereafter once at least in every calendar year on such date, (not being more than fifteen months after the preceding general meeting) and at such places, as the Committee may consider convenient for the dispatch of business.
- (b) At the general meeting, a report of the activities of the Committee for the year under review and the yearly audited accounts including a statement of Income and Expenditure and a Balance Sheet made up to a date not earlier than the date of the meeting by more than six months, shall be submitted.
- (c) Such meeting shall be called annual general meeting; and all other general meetings of the Council shall be called extra-ordinary general meetings¹.

¹The member of 'extra' ordinary general meeting to be checked.

34.2 Business for the annual general meetings

The ordinary business to be transacted at an annual general meeting of the Council shall be:

- (a) to receive and consider the accounts and the reports of the Committee and the Auditors;
- (b) to place on record the names of the Committee Members;
- (c) to appoint and fix the remuneration of the Auditors.

34.3 Requisition for meeting

If one-tenth of all the members having voting rights on the date of requisition, by requisition in writing, setting forth the reasons, therefore and signed by them and addressed to the Committee, request the Committee to call a meeting of the Council. The Committee shall, within 21 days of the receipt by it of the requisition, cause to be sent out a notice calling a meeting of the Council, for such date and time as may be determined by the Committee.

34.4 No right to remuneration

Members of the Council shall not be entitled to any remuneration² for attending its meeting or for performance any other functions as such members.

²Cf. Article 30.6 as to Committee members

35. NOTICES OF MEETINGS

35.1 Notice how given

- (a) In regard to every annual general meeting of the Council, not less than fourteen day's notice to the members, specifying the place, date and hour of meeting (with a statement of the business to be transacted there at) shall be given.
- (b) A notice may be given to any member either personally or by sending it by post or by fax or by a courier approved by the Committee to such member's registered address or (if a member has no registered address in India) to the address, if any, within India furnished by the member for the giving of notices¹.
- (c) Where a notice is sent by post, the service shall be deemed to have been effected at the expiry of 48 hours after it is posted, as provided in section 53 of the Act.

35.2 Address

If a member has no registered address in India and has not supplied to the Council an address within India for the giving of notice, a notice addressed to such member and advertised in a newspaper circulating in the neighbourhood of the registered office of the Council shall be deemed to be duly given to such member, on the day on which the advertisement appears in the newspaper.

¹ Addition regarding fax/courier to be noted

35.3 Service of notice

- (a) Any notice required to be given by the Council to the members or any of them, and not expressly provided for by these articles, shall be sufficiently given, if given by advertisement and any notice which is required to be, or which may be given by advertisement shall be advertised once at least in one or more newspaper circulating in the neighbourhood of the registered office of the Council.

- (b) The non-receipt by any member, of any notice of meeting required by these articles to be given to the member, shall not invalidate any proceedings of any meeting or any resolution passed at any meeting.

36. PROCEEDINGS AT MEETINGS OF THE COUNCIL

36.1 Business and Quorum

No business shall be transacted at any meeting of the Council, unless the quorum laid down in article 17.2 is present at the commencement of the business; and if no such quorum is present within half an hour of the meeting, then the provisions of article 17.4 shall apply.

36.2 Conduct of meeting : who to preside

The provisions of article 17.5 shall apply regarding presiding at meetings of the Council.

36.3 Voting

At any general meeting, a resolution put to the vote of the meeting shall be decided by a show of hands, unless a poll is before or on the declaration of the result of the show of hands) demanded by the Chairman or such members is provided in section 179 of the Act, and unless a poll is so demanded, a declaration by the Chairman that the resolution has, on a show of hands, been carried unanimously, or by a particular majority, or lost, shall be conclusive; and an entry, to that effect, in the book of the proceedings of the meetings of the Council and signed by the Chairman shall be conclusive evidence of the fact, without proof of the number or proportion of the votes recorded in favour, or against that resolution.

36.4 Adjournment

The Chairman of a meeting of the Council may, with the consent of the meeting adjourn the same from time to time and, but no business shall be transacted at any such adjourned meeting; other than the business left unfinished at the meeting from which the adjournment took place.

36.5 Voting confined to ordinary members

No member other than an ordinary member of the Council shall vote at its meetings.

37. VOTES OF MEMBERS

37.1 Voting

At any meeting of the Council, every Ordinary member present shall be entitled to one vote and in the event of an equality votes, the Chairman shall have a casting vote, in addition to his own. No member shall nominate any other person to vote on his behalf, except as otherwise provided in these articles.

38. MINUTES

38.1 Minutes

Minutes of the meetings of the Council shall be kept in the manner prescribed in section 193 of the Act.

39. BOOKS AND DOCUMENTS

39.1 Books of Accounts

The Committee shall cause to be kept proper books of accounts with respect to:

- a) all sums of money received and spent by the Council and the matters in respect of which the receipt and expenditure took place;
- b) all sales and purchases of goods by the Council; and
- c) the assets and liabilities of the Council.

39.2 Books where kept

The books of account referred to in article 39.1 shall be kept at the registered office of the Council or at such other places as the Committee thinks fit, and shall be open for inspection by the members of the Committee during office hours.

39.3 Time and Place

The Committee shall, from time to time, by rules determine whether and to what extent and at what times and places and under what conditions, the accounts and books of the Council or any of them shall be open for the inspection of the members (not being members of the Committee) and no members (not being member of the Committee shall have any right to inspect any account or book or document of the Council, except as provided by law or authorized by the Committee or by a resolution of the Council in a general meeting;

Provided that, the accounts and books of the Council shall be open for inspection by an officer duly authorized in this behalf by the Central Government for ascertaining or verifying the income and expenditure of the Council or for such other purposes as may, by agreement between the Council and the Central Government, be specified in this regard.

39.4 Balance Sheet and Report

A printed copy of the audited Income and Expenditure Account and Balance Sheet of the Council, together with the report of the Auditor and of the Committee, shall, at least fourteen days previous to the annual general meeting of the Council, be sent to the registered address of every member and a copy shall also be kept at the registered office of the Council for the inspection of members during a period of at least fourteen days before the meeting.

39.5 Copies

After the Balance Sheet and Income and Expenditure Account have been laid before the members in the annual general meeting, three copies of the Balance Sheet signed by the Executive Director or Secretary, shall (in the case of a Council incorporated under the Companies Act, 1956) be filed with the competent officer as required by the Companies Act 1956.

40 AUDITORS

40.1 Auditors

- (a) Auditors shall be appointed at the annual general meeting of the Council each year,
- (b) The rights and duties of the auditors shall be regulated in accordance with the provisions of the Act.
- (c) Any casual vacancy in the office of the Auditor may be filled by the Committee.

41. BUDGES ESTIMATES

41.1 Budges

- (a) The Committee shall each year prepare a Budget for the ensuing year and shall submit it to the Council on or before such date as may be determined by the Committee.
- (b) No expenditure shall be incurred until the budget is sanctioned by the Committee.
- (c) The budget shall be in such form as the Committee may direct, from time to time.
- (d) Supplementary estimates of expenditure shall be submitted for the sanction of the Committee in such form and on such date as may be specified by the Committee.

42. EXPENDITURE

42.1 Expenditure

- (a) Subject to the provisions of these articles and the rules framed there under, the Committee may incur such expenditure as it may think fit and write off any sums and may delegate to the Chairman or Executive Director or other Officer (s) of the Council, such financial powers as it may consider expedient.
- (b) The Committee may, subject to control of the Council and the Council may, subject to the provisions of these articles, incur expenditure outside India, subject to the provisions of any law for the time being in force.
- (c) Subject to the provisions of any law for the time being in force, and subject to the provisions of these articles to expenditure outside India may, i.e incurred by the Council and subject to its control by the Committee.

43. CUSTODY AND DISBURSEMENT OF FUNDS.

43.1 Custody rules

- (a) The Committee shall make rules for the custody and disbursement of funds of the Council:
- (b) The account of the Council shall be opened in a Scheduled Bank; and all moneys at the disposal of the Council, with the exception of petty cash and imprest, shall be paid into such account.

44. INVESTMENT OF FUNDS

44.1 Investment

The funds of the Council, which are not required for current expenditure may be placed in fixed deposit with any scheduled bank or may be invested in any security in which trust property may lawfully, be invested under section 20 of the Indian Trusts Act. 1882, subject to such instructions as may be issued from time to time by the Government of India, in the Department of Public Enterprises with reference to investments.

45. HEAD OFFICE

45.1 Head office of the Council

The Head Office of the Council shall be at Jhansi Castle, 4th Floor, 7, Cooperage Road, Mumbai – 400 001. India.

46. ACTION PLANS

46.1 Duty of Council

- (1) The Council shall, from time to time, obtain from its members proposals for export and then prepare an integrated action plan for-
 - (a) the promotion of exports
 - (b) the generation of production for exports
 - (c) the setting of exports targets generally and also in relation to specific countries and commodities.
- (2) Such plans shall be prepared for every financial year or for such longer or shorter period as may be considered desirable in the circumstances by the Council.
- (3) The Council shall make all possible efforts to secure prompt execution of such plans.

47. POWERS OF THE CENTRAL GOVERNMENT

47.1 Power to give directions

- (1) The Central Government shall have power to give directions to the Council as to the performance of its functions, where the Government considers such directions to be necessary.
 - (a) in the interests of national security: or
 - (b) in the interests of the national economy: or
 - (c) otherwise in the public interest.
- (2) The Central Government shall also have power to call for such reports, returns and other information with respect to the property and affairs of the Council, the conduct of its business and other matters connected with the performance of its functions, as the Central Government may consider necessary.
- (3) The Council shall be bound to comply with all directions issued by the Central Government under sub-article (1) or (2) of this article¹ and all provisions contained in the Export -Import Policy of the Central Government for the time being in force.

¹ This should be better contained in legislation or subordinate legislation

47.2 Foreign Collaboration

All agreements between the Council and any foreign collaborations shall require prior approval of the Central Government .²

² This provision should really form part of legislation on the subject or in subordinate legislation.

48. ALTERATION IN ARTICLES

No addition to, modification in, or deletion of any of these articles shall be made without the prior approval of the Central Government. ¹

¹ This provision should really form part of legislation on the subject.

49. REPUGNANCY TO COMPANIES ACT

Where, in relation to a Council to which the Companies Act, 1956 applies, there is a repugnancy between the provisions of these articles and the procedures of that Act, the procedures of the Act shall to the extent of the repugnancy overrule the provisions of these articles.

50. MODIFICATION DURING THE TRANSITIONAL PERIOD

In order to effect a smooth transition from the position prevailing before the adoption of these articles to the position resulting from the application of these articles, the Committee may propose to the Central Government to make such additions to, or modification in these articles as it may consider appropriate during a period of three years from such adoption.

51. GENERAL POWER TO MODIFY

The Central Government may at any time direct by an order in writing that the provisions of these articles shall stand modified in such manner as the Central Government may direct, as in relation to Councils generally or be in relation to a group of Councils or a particular Council where such a direction appears to be necessary in public interest.