



International Coffee Organization
Organización Internacional del Café
Organização Internacional do Café
Organisation Internationale du Café

ICC 101-3

9 September 2008
Original: English

E

International Coffee Council
101st Session
22 – 26 September 2008
London, England

**Status of the
International Coffee Agreement 2007
As at 5 September 2008**

Background

1. The attached document contains a report on the status of signatures and deposit of instruments of ratification, acceptance or approval of the International Coffee Agreement (ICA) 2007, together with information about options for the entry into force of the 2007 Agreement and background about the entry into force of the 2001 Agreement.
2. The Executive Director urges all Governments that have yet to complete membership formalities for the 2007 Agreement to make every effort to accelerate the procedures required.

Action

The Council is requested to consider this report.

**STATUS OF THE INTERNATIONAL COFFEE AGREEMENT 2007
AS AT 5 SEPTEMBER 2008**

Background

2001 Agreement

In the case of the International Coffee Agreement (ICA) 2001, which opened for signature at the United Nations for a period of 11 months from 1 November 2000 to 25 September 2001, 35 Members (22 exporting and 13 importing Members) signed the Agreement by the deadline of 25 September 2001, however only 18 Members (10 exporting and 8 importing Members, holding 40% and 54.2% of the votes of exporting and importing Members, respectively) had deposited the necessary instruments by the same date. Representatives of the countries which had completed procedures met during the 84th Session of the Council from 26 – 28 September 2001 and decided by mutual consent that the Agreement should enter into force provisionally among themselves on 1 October 2001 (see document ICC-84-7). In May 2002, the Council decided through Resolution 409 that the ICA 2001 should continue in force provisionally and enter into force definitively when the conditions specified in Article 45 of the Agreement were reached. The 2001 Agreement finally entered into force definitively on 17 May 2005. Details of numbers of Contracting Parties (CPs) during the 2001 Agreement are provided below.

Membership of International Coffee Agreement 2001	
25 Sept. 2001	18 CPs (10 Exporting, 8 Importing)
30 Sept. 2002	44 CPs (30 Exporting, 14 Importing)
30 Sept. 2003	55 CPs (40 Exporting, 15 Importing)
30 Sept. 2004	60 CPs (44 Exporting, 16 Importing)
30 Sept 2005	63 CPs (44 Exporting, 19 Importing)
30 Sept 2006	67 CPs (45 Exporting, 22 Importing)
30 Sept 2007	69 CPs (45 Exporting, 24 Importing)
Total signatures and instruments	35 Signatures (22 Exporting, 13 Importing) 25 Ratifications (17 Exporting, 8 Importing) 4 Acceptances (3 Exporting, 1 Importing) 4 Approvals (2 Exporting, 2 Importing) 34 Accessions (23 Exporting, 11 Importing) 11 Prov Application (4 Exporting, 7 Importing)

As countries which have not completed membership procedures are not required to pay contributions to the Administrative Budget, and only 18 Members of the 1994 Agreement as extended had completed the procedures by the deadline of 25 September 2001, this resulted in a financial shortfall for the Organization. In September 2001, the Council adopted Resolution 405, with a view to alleviating the adverse impact of this shortfall on the Organization. The Resolution provided for basing contributions to the 2001/02 Administrative Budget on the assumption that a substantial number of Members of the 1994 Agreement as extended would become Members of the ICA 2001 during the course of the financial year. Nevertheless, the Reserve Fund was depleted by £812,000 in the financial year 2001/02 alone.

Status of 2007 Agreement

Signatures

Under the provisions of Article 40 (Signature and ratification, acceptance or approval) of the ICA 2007, the Agreement was opened for signature for seven months from 1 February 2008 until 31 August 2008 by Contracting Parties to the ICA 2001 and Governments invited to the session of the Council at which the Agreement was adopted. The Executive Director of the International Coffee Organization (ICO), as the chief administrative officer of the Depositary for the ICA 2007, has confirmed that when the deadline for signature expired on 31 August 2008, 28 exporting and 4 importing Governments had signed the Agreement. The position of signatures is shown in Annex I.

Deposit of instruments

Article 40 further provides that instruments of ratification, acceptance or approval should be deposited with the Depositary by 30 September 2008. The Executive Director has confirmed that, as 5 September 2008, two exporting Members and two importing Members, holding 13.9% and 89.8% of the votes of exporting and importing Members respectively, had ratified, accepted, or approved the Agreement. The position of deposit of instruments of ratification, acceptance or approval is shown in Annex I.

Requirements for entry into force

Annex II shows the percentage of the votes necessary for the entry into force of the 2007 Agreement. The votes listed were calculated as at 28 September 2007, in accordance with the provisions of paragraph (1) of Article 42 (see document EB-3934/07). Governments are listed in four categories, as shown below:

- Section A: Governments that have completed all the required procedures
- Section B: Governments that have signed the Agreement but not completed the required procedures
- Section C: Governments that have not signed the Agreement
- Section D: Governments invited to the 98th Session of the Council at which the 2007 Agreement was adopted.

In the case of exporting Members, signatory Governments holding at least two-thirds of the votes of exporting Members need to deposit instruments of ratification, acceptance or approval. Two exporting Members holding 13.9% of the votes of exporting Members have completed the necessary procedures. A further 26 exporting Members holding a potential 67.5% of the votes of exporting Members have signed the ICA 2007 but have not yet deposited instruments. The requirement for votes has therefore not yet been met by this category of Members.

In the case of importing Members, signatory Governments holding at least two-thirds of the votes of importing Members need to deposit instruments of ratification, acceptance or approval. Two importing Members holding 89.8% of the votes of importing Members have completed the necessary procedures and the requirement for votes has therefore been met by this category of Members.

Annex III contains the text of Article 42.

Way forward

As noted above, the requirements for definitive entry into force of the ICA 2007 described in paragraph (1) of Article 42 (Entry into force) have not yet been met in the case of exporting Members.

Under the provisions of paragraph (2) of Article 42, if the Agreement has not entered into force definitively by 25 September 2008, it may enter into force provisionally at any time within the next twelve months if signatory Governments holding at least two-thirds of the votes in each category of Members have deposited instruments of ratification, acceptance or approval or have notified the Depositary that they will apply the Agreement provisionally.

The Secretariat will monitor the position of votes required for the entry into force of the Agreement as signatory Governments deposit instruments, and notify Members when the requirement has been met.

Under the provisions of paragraph (3) of Article 42, if the Agreement has entered into force provisionally but has not entered into force definitively by 25 September 2009, it shall cease to be in force provisionally unless signatory Governments which have deposited instruments decide that it shall continue in force provisionally for a period of time. Paragraph (4) of the same Article provides that if the ICA 2007 has not entered into force either definitively or provisionally by 25 September 2009, signatory Governments that have deposited instruments may, by mutual consent, decide that it shall enter into force definitively among themselves. A meeting of signatory Governments would be held on 25 September 2009, at which time signatory Governments would decide whether the Agreement should either continue in force

provisionally (if the requirements for provisional entry into force have been met by that date) or enter into force definitively among themselves, in accordance with the provisions of paragraphs (3) and (4) of Article 42.

Further extension of ICA 2001

As the requirements for the votes necessary for the entry into force of the ICA 2007 have not yet been met in the case of exporting Members, and in view of the time required by countries to complete internal and legislative procedures necessary for membership of the ICA 2007, it is proposed that the ICA 2001 be extended for a further year. A draft Resolution is contained in document WP-Council 183/08.

Extension of time limit for ratification, acceptance or approval

Under the provisions of Article 40, the deadline for signatory Governments to deposit instruments of ratification, acceptance or approval with the Depositary is 30 September 2008. Paragraph (3) of Article 40 provides that the Council may decide to grant extensions of time to signatory Governments which are unable to deposit their instruments by that date. Document WP-Council 183/08 contains a draft Resolution to extend this time limit until 30 September 2009. This would apply to countries listed in Section B of Annex II.

Accession

Article 43 (Accession) provides that the Government of any State member of the United Nations or of any of its specialized agencies or any intergovernmental organization described in paragraph (3) of Article 4 may accede to this Agreement in accordance with procedures which shall be established by the Council. It should be noted that instruments of accession cannot be considered for the purposes of entry into force. Document WP-Council 183/08 contains a draft Resolution establishing procedures for accession to the 2007 Agreement. This would apply to countries listed in Sections C and D of Annex II.

Updated information on membership procedures

Updated information on procedures for membership of the ICA 2007, including a model instrument of accession, will be circulated after the Council session from 22 to 26 September 2008.

ANNEX I

**MEMBERSHIP OF THE INTERNATIONAL COFFEE ORGANIZATION
UNDER THE INTERNATIONAL COFFEE AGREEMENT 2007**

In accordance with Article 40, the International Coffee Agreement (ICA) 2007 was opened for signature at the ICO Headquarters in London from 1 February 2008 to 31 August 2008. The position of signatures, notifications of provisional application and instruments of ratification, acceptance and approval as at 5 September 2008 is as follows:

	DATE OF SIGNATURE	TYPE OF INSTRUMENT DEPOSITED	DATE OF DEPOSIT OF INSTRUMENT
Exporting Members			
Angola	19 May 2008		
Brazil	19 May 2008		
Cameroon	23 May 2008		
Central African Republic	22 May 2008		
Colombia	20 May 2008		
Costa Rica	29 May 2008		
Côte d'Ivoire	18 July 2008		
Cuba	29 August 2008		
El Salvador	25 June 2008		
Ethiopia	28 August 2008		
Gabon	22 July 2008		
Ghana	11 July 2008		
Guatemala	29 August 2008		
Guinea	2 July 2008		
Honduras	27 June 2008		
India	28 August 2008		
Indonesia	25 June 2008		
Kenya	22 May 2008	Ratification	22 May 2008
Liberia	26 August 2008		
Malawi	28 August 2008		
Nigeria	21 July 2008		
Panama	1 July 2008		
Rwanda	18 July 2008		
Tanzania	23 July 2008		
Timor-Leste	19 August 2008		
Togo	23 May 2008		
Vietnam	28 August 2008	Approval	28 August 2008
Yemen	27 February 2008		
Importing Members			
European Community	17 June 2008	Approval	17 June 2008
Switzerland	22 May 2008		
Turkey	28 August 2008		
United States of America	28 August 2008	Acceptance	28 August 2008

**PERCENTAGE OF VOTES NECESSARY FOR THE
ENTRY INTO FORCE OF THE 2007 AGREEMENT
(AS AT 5 SEPTEMBER 2008)**

EXPORTING MEMBERS		IMPORTING MEMBERS	
A. Exporting Governments which have completed all the required procedures		A. Importing Governments which have completed all the required procedures	
	Percentage of votes for the purposes of entry into force		Percentage of votes for the purposes of entry into force
Kenya	1.2	European Community	68.0
Vietnam	12.7	United States of America	21.8
Total (2)	13.9	Total (2)	89.8
B. Exporting Governments which have signed the Agreement but not completed the required procedures		B. Importing Governments which have signed the Agreement but not completed the required procedures	
	Percentage of votes for the purposes of entry into force		Percentage of votes for the purposes of entry into force
Angola	0.5	Switzerland	1.8
Brazil	24.4	Turkey	n.a.
Cameroon	1.2		
Central African Republic	0.5		
Colombia	10		
Costa Rica	1.8		
Côte d'Ivoire	2.6		
Cuba	0.5		
El Salvador	1.7		
Ethiopia	2.8		
Gabon	0.5		
Ghana	0.5		
Guatemala	3.6		
Guinea	0.8		
Honduras	2.9		
India	3.6		
Indonesia	5.5		
Liberia	n.a.		
Malawi	0.5		
Nigeria	0.5		
Panama	0.6		
Rwanda	0.8		
Tanzania	1.1		
Timor-Leste	n.a.		
Togo	0.6		
Yemen	n.a.		
Total (26)	67.5	Total (2)	1.8

n.a. = not applicable

C. Exporting Governments which have not signed the Agreement		C. Importing Governments which have not signed the Agreement	
	Percentage of votes for the purposes of entry into force		Percentage of votes for the purposes of entry into force
Benin	0.5	Japan	7.2
Bolivia	0.6	Norway	1.2
Burundi	0.8		
Congo Dem. Rep	0.7		
Congo, Rep.	0.5		
Dominican Republic	0.6		
Ecuador	1.3		
Haiti	0.5		
Jamaica	0.5		
Madagascar	0.6		
Mexico	2.6		
Nicaragua	1.6		
Papua New Guinea	1.5		
Paraguay	0.5		
Philippines	0.5		
Thailand	0.8		
Uganda	2.7		
Venezuela	0.6		
Zambia	0.6		
Zimbabwe	0.6		
Total (20)	18.6	Total (2)	8.4
D. Governments invited as observers to attend the 98th Session of the Council at which the ICA 2007 was adopted			
Algeria	Equatorial Guinea	Morocco	South Africa
Argentina	Fiji	Mozambique	Sri Lanka
Armenia	Iceland	Myanmar	Sudan
Australia	Iran, Islamic Republic of	Nepal	Syrian Arab Republic
Belarus	Israel	New Zealand	The former Yugoslav Republic of Macedonia
Belize	Jordan	Oman	Trinidad and Tobago
Botswana	Korea, Republic of	Pakistan	Tunisia
Cambodia	Kuwait	Peru	Ukraine
Canada	Lao People's Dem. Rep.	Russian Federation	United Arab Emirates
Chile	Lebanon	Saudi Arabia	Uruguay
China	Libyan Arab Jamahiriya	Serbia	
Croatia	Malaysia	Sierra Leone	
Egypt	Mauritius	Singapore	

ENTRY INTO FORCE OF THE 2007 AGREEMENT

Article 42 (Entry into force) of the ICA 2007 provides that the Agreement shall enter into force as follows:

(1) This Agreement shall enter into force definitively when signatory Governments holding at least two-thirds of the votes of the exporting Members and signatory Governments holding at least two-thirds of the votes of the importing Members, calculated as at 28 September 2007, without reference to possible suspension under the terms of Article 21, have deposited instruments of ratification, acceptance or approval. Alternatively, it shall enter into force definitively at any time if it is provisionally in force in accordance with the provisions of paragraph (2) of this Article and these percentage requirements are satisfied by the deposit of instruments of ratification, acceptance or approval.

(2) If this Agreement has not entered into force definitively by 25 September 2008, it shall enter into force provisionally on that date, or on any date within twelve months thereafter, if signatory Governments holding votes as described in paragraph (1) of this Article, have deposited instruments of ratification, acceptance or approval, or have notified the Depositary in accordance with the provisions of Article 41.

(3) If this Agreement has entered into force provisionally but has not entered into force definitively by 25 September 2009, it shall cease to be in force provisionally unless those signatory Governments which have deposited instruments of ratification, acceptance or approval, or have notified the Depositary in accordance with the provisions of Article 41, decide, by mutual consent, that it shall continue in force provisionally for a specific period of time. Such signatory Governments may also decide, by mutual consent, that this Agreement shall enter into force definitively among themselves.

(4) If this Agreement has not entered into force definitively or provisionally by 25 September 2009 under the provisions of paragraph (1) or (2) of this Article, those signatory Governments which have deposited instruments of ratification, acceptance or approval, in accordance with their laws and regulations, may, by mutual consent, decide that it shall enter into force definitively among themselves.