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**Report on the 1st Meeting of the
Working Group on the Future of the
International Coffee Agreement
1 July 2019**

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1. Ambassador Hermano Telles Ribeiro welcomed all participants to the first meeting of the Working Group on the Future of the International Coffee Agreement (WGFA) and asked the Secretariat, for the sake of clarity, to inform all delegates present on the nature of the decision taken by Council in its last Session.

2. The Executive Director informed that the Council, during its 124th Session, had decided to establish a Working Group with the mandate of examining the current Agreement and proposals submitted by Members, or other invited parties, and to submit recommendations to the Council. The Council had appointed in a personal capacity H.E. Ambassador Hermano Telles Ribeiro, of Brazil, as Chair of the Working Group, and Ms Stefanie Kűng, of Switzerland, as Vice-Chair.

3. Representatives of the following Members were present, in person or by electronic means: Brazil, El Salvador, European Union, Indonesia, Japan, Mexico, Papua New Guinea, Peru, Russian Federation and Switzerland.

Item 1: Adoption of the Agenda

4. Introducing the draft Agenda contained in document [WGFA-1/19](#), the Chair proposed that documents [WGFA-3/19](#) (Preliminary Legal Advice) and [WGFA-4/19 Rev. 1](#) (Survey of Members) be considered together, as they were related items. This proposition and the agenda were adopted.

Item 2: Draft terms of reference

5. The Chair presented document [WGFA-2/19](#) Draft Terms of Reference for the Working Group on the Future of the International Coffee Agreement. According to its mandate, the Working Group shall be open to all Members and shall establish its own procedures and, to the extent possible, will meet at the seat of the Organization, at the time of regular meetings of the Council, and between such meetings.

6. With regard to the Group's working procedures, the Executive Director proposed that the meetings should be conducted in English, citing:

- a) the insufficient budgetary allocation to cover interpretation during any intersessional meetings, although he pointed out that meetings held during Sessions of the Council would have interpretation in all four official languages; and

- b) the precedent of intersessional meetings of the previous Working Group, during the renegotiation of the International Coffee Agreement (ICA) 2007, which were conducted in English.

7. The proposal was approved.

8. There was a general feeling from participants that, in spite of the desire to maintain transparency in the reporting of the meetings of the Working Group, discretion should be exercised as to what information should be made public. A balance needed to be found between transparency and providing an environment where Members would feel free to express their opinions. The Group were unanimous in their decision that the reports of meetings should be made available to the public. However, all other documents should be circulated on a restricted basis, unless otherwise determined at a later date.

9. Members requested that draft reports should initially be forwarded to participants for their feedback and approval prior to official circulation.

10. For clarification as to who would be eligible to attend the meetings of the Working Group, the Executive Director mentioned that the Private Sector Consultative Board and non-governmental organizations had been allowed to participate as observers during discussions of the last ICA 2007. However, any proposals and/or suggestions, needed to be channelled through the relevant Member country.

11. The Working Group approved this procedure.

Item 3: Review of the Future of the International Coffee Agreement 2007

Item 3.1 Preliminary legal advice

12. The Executive Director informed the Group that he had sought preliminary legal advice from the ICO's legal advisers on the difference between amending and renegotiating the Agreement ([WGFA-3/19](#)) in order to advance substantive debate on the way forward.

13. Firstly, as there were no concrete proposals for discussion on any amendments, the lawyers considered premature to provide any advice as to whether any change(s) would entail a simple amendment or a new Agreement.

14. With regard to amendment, they noted that the procedures required to approve an amendment or a new Agreement were similar and that approval by national legislatures was usually required.

15. With regard to a new Agreement, the lawyers noted that this was likely to be necessary if any changes were made in Article 1 “Objectives” of the ICA 2007. Also, if the ICA 2007 is terminated or expires, then a new Agreement would definitely be necessary.

16. The lawyers next presented their views on the difference between amendment and a new Agreement. According to English law, if the new document varies from the original in an essential way, then it is a new Agreement. They noted the risk of unforeseen consequences if a party seeks to rely on a provision of the original Agreement that may not have been reproduced in the new Agreement.

17. Therefore, concrete proposals needed to be received in order to assess the best way forward. Since the question of amendment or renegotiation could only be defined at a later stage, Members should bear in mind that they should seek the appropriate mandate from their respective capitals in case amendments were substantial enough to be considered a new Agreement.

18. Given the lack of information available at present, the lawyers considered that obtaining guidance from a specialist in international treaties might be useful at the appropriate time, subject to the availability of the text of any proposed changes.

Item 3.2: Survey of the future of the International Coffee Agreement 2007

19. The Chair introduced document [WGFA-4/19 Rev. 1](#) Survey on the Future of the International Coffee Agreement: Overview of Submissions from ICO Members. The survey had been originally open from 18 April to 24 May 2019, but subsequently extended. In total, 16 responses had been received from exporting and importing Members. He pointed out that some Members defended extension, while others preferred extension with amendments or renegotiation, but no sentiment existed in favour of termination of the ICA 2007.

20. The Executive Director highlighted that, from the responses received, Brazil advocated a simple extension without amendments, while the European Union had indicated that it would rather terminate the ICA 2007 than approve a simple extension without amendments. All other responses contemplated the possibility of an extension with amendments and/or a new Agreement.

21. The Chair invited any Member present that had not yet put forward their views to do so.

Item 3.3: Proposals for change

22. The representative of the Russian Federation, which had not yet responded to the survey, stated that the emphasis of the Working Group should be on substance and not form. His government favoured an extension of the Agreement with possible amendments, but not a renegotiation. He also noted that all other international commodity bodies had Russian as one of their official working languages, but this was not the case at the ICO. He requested that this matter be considered by the Working Group.

23. In relation to making changes to the present Agreement, several Members expressed the opinion that these were needed for the Organization to meet the current challenges facing the world coffee sector, which were substantially different from those when the last Agreement was negotiated. These Members favoured a new Agreement.

24. The Executive Director pointed out that the current Agreement will expire in 2021, with the possibility of extension for a further eight years. Negotiation of the ICA 2007 had been concluded in September 2007, but the necessary conditions to come into force had only been attained four years later, in February 2011. The internal ratification process of a new Agreement could take four years or even longer. If the ICA 2007 were to be extended for the full eight years, it would expire in 2029. If Members considered that the continued existence of an International Coffee Agreement was desirable, a new Agreement would need to be approved by 2024, approximately, in order to allow time for internal ratification procedures. Therefore, an extension, with or without amendment, of the ICA 2007 would mean that Members would have to go through the negotiation process yet again within four years.

25. Japan stated that its government would favour the extension of the duration of the present Agreement beyond 2029, years from the current period of "ten years" to "twenty years", by making amendments to Article 48. This approach was supported by another Member, who considered that ratification would be an extremely lengthy process. The representative of Brazil indicated that, at the present moment, his government favoured a simple extension of the Agreement, without amendment.

26. The Chair stated that comments from many Members pointed towards the need to make changes in the present Agreement in order to deal with current challenges, among which were: the structure of the Organization; new and emerging issues; and a new relationship with the private sector.

Item 4: Next steps

27. The Chair noted the desire of several Members to amend or renegotiate the Agreement and reminded them of time constraints. He proposed that the deliberations of the Working Group should be grouped into four pillars, defined as follows:

- (a) Objectives [Chapter I of ICA 2007];
- (b) Membership, votes and decision making [Chapters IV and VI of ICA 2007];
- (c) Structural and administrative matters [Chapters II, III, V, VII, VIII, XIII (not including Article 36), XIV and XV of ICA 2007]; and
- (d) Areas of work [Chapters IX, X, XI and XII and Article 36 of ICA 2007].

28. The Chair also agreed with the desirability of setting up an electronic platform to speed up communication between Members. Other international organizations had such systems in place and they were very effective. The Secretariat should look into this possibility and inform the Group in its September meeting.

29. Members requested the Executive Director to research the cost of legal counsel specialised in international treaties.

30. In order to present a timely report of the Working Group to the Council and to allow time for translation, the Executive Director would request Members to send in their proposals, focused on the four pillars mentioned in paragraph 27, by 1 September 2019.

31. All agreed that important progress had been achieved and that, should substantive feedback be available before September, further advances could be made during the WGFA's second meeting.

Item 5: Other business

32. No issues were raised under this item.

Item 6: Date of next meeting

33. The next meeting will be held during the 125th Session of the Council in the week of 23 to 27 September 2019.