



ORGANIZACIÓN INTERNACIONAL DEL CAFÉ
ORGANIZAÇÃO INTERNACIONAL DO CAFÉ
ORGANISATION INTERNATIONALE DU CAFÉ

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London, England

**Status of membership of the
Organization under the
International Coffee Agreement 2007
as at 14 September 2010**

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.
2. In April and July 2010 the Executive Director circulated documents DN-79/10/ICA 2007 and DN-84/10/ICA 2007 notifying Members of the opportunity to sign the 2007 Agreement and deposit instruments during the 105th Session of the Council in London.
3. 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.
4. The following Annexes are included in this document:

| | |
|-----------|--|
| Annex I | Membership of the ICO under the ICA 2007 |
| Annex II | Percentage of votes necessary for the entry into force of the ICA 2007 |
| Annex III | Article 42 of the ICA 2007 (Entry into force) |

Action

The Council is requested to consider this report.

STATUS OF MEMBERSHIP OF THE ORGANIZATION UNDER THE ICA 2007 AS AT 14 SEPTEMBER 2010

Background

1. The ICA 2007 was adopted by the International Coffee Council on 28 September 2007 through Resolution 431. On 25 January 2008, the Council designated the International Coffee Organization (ICO) as the Depositary for the Agreement and it opened for signature at the ICO headquarters in London on 1 February 2008 until 31 August 2008, and for deposit of instruments of ratification, acceptance or approval until 30 September 2008. The period for signature and deposit of instruments was subsequently extended until 25 September 2009 by Council Resolutions 439 and 440.

2. At its 103rd Session in September 2009, the Council noted that the requirements for entry into force of the 2007 Agreement had not yet been met in the case of exporting Members. It approved Resolution 443 extending the 2001 Agreement until 30 September 2010 to enable Governments to complete membership procedures for the ICA 2007. The Council further approved Resolutions 441 and 442 which respectively extended the time for signature and deposit of instruments until **25 September 2010**. Procedures for membership are set out in document ED-2033/08 Rev. 3.

Status of 2007 Agreement

3. Paragraph (1) of Article 42 of the ICA 2007 provides that the 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 2007¹, without reference to possible suspension under the terms of Article 21, have deposited instruments of ratification, acceptance or approval.

4. As at 14 September 2010, 40 exporting Members and six importing Members have signed the Agreement, and 27 exporting Members and three importing Members have ratified, accepted, or approved the Agreement or deposited notifications of provisional application (see Annex I). Annex II shows the status of the percentage of the votes necessary for the entry into force of the 2007 Agreement. Governments are listed in four categories, as shown below:

Section A: Governments which have completed all the required procedures

Section B: Governments which have signed the Agreement but not completed the required procedures

¹ See document EB-3934/07.

Section C: Governments which have not signed the Agreement

Section D: Governments invited as observers to attend the 98th Session of the Council at which the ICA 2007 was adopted.

5. 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 or notifications of provisional application. Three importing Members holding 91.6% 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.

6. 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, or notifications of provisional application. Twenty-seven exporting Members holding 60.3% of the votes of exporting Members have completed the necessary procedures. An additional 13 exporting Members holding a potential 35.4% of the votes of exporting Members have signed the ICA 2007 but have not yet deposited instruments or notifications of provisional application. The requirement for votes has therefore not yet been met by this category of Members.

7. The Secretariat will continue to 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.

Way forward

8. There are a number of possibilities for the entry into force of the ICA 2007, including:

A. Requirement for entry into force is met before 25 September 2010 and the ICA 2007 enters into force provisionally or definitively:

- Time-limits for deposit of instruments by signatory Governments extended
- Signatory Governments may notify the Depositary at any time that they will apply the Agreement provisionally
- Procedures for accession by non-signatory Governments established

B. Signatory Governments which have deposited instruments meet and decide the ICA 2007 should enter into force definitively among themselves:

- Time-limits for deposit of instruments for ICA 2007 by signatory Governments extended
- Signatory Governments may notify the Depositary at any time that they will apply the Agreement provisionally
- Procedures for accession by non-signatory Governments established

C. The ICA 2001 is further extended, to allow further time for Governments to complete the necessary formalities for membership of the ICA 2007:

- Time-limits for signature and deposit of instruments for ICA 2007 extended
- Signatory Governments may notify the Depositary at any time that they will apply the Agreement provisionally

A. Requirement for entry into force met before 25 September 2010

9. Under the provisions of paragraph (1) of Resolution 442, Governments may deposit instruments of ratification, acceptance or approval of the 2007 Agreement up to 25 September 2010. Under the provisions of paragraph (1) of Resolution 443, the 2001 Agreement was extended until 30 September 2010, and the International Coffee Agreement 2007 shall enter into force as soon as the conditions for its provisional or definitive entry into force are met, thus terminating the period of extension of the International Coffee Agreement 2001.

10. This option would require signatory Governments with at least 6.4% of the votes of exporting Members to ratify, accept or approve the 2007 Agreement by 25 September 2010, in addition to Governments which have completed all the procedures listed in Section A of Annex II. This scenario appears unlikely as signatory Governments listed in Section B of Annex II require further time to complete the necessary formalities.

11. If the requirement for entry into force is met, the Council would consider a draft Resolution extending the time-limit for deposit of instruments by signatory Governments listed in Section B of Annex I, and would also consider establishing procedures for accession by non-signatory Governments listed in Sections C and D of Annex II.

B. Meeting of signatory Governments

12. Under the provisions of paragraph (4) of Article 42, if the 2007 Agreement did not enter 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.

13. A meeting of Governments which have completed all the procedures (see Section A of Annex II) could be held if so wished during the 105th Council Session or on a subsequent date to decide whether the Agreement should enter into force among themselves. If they decide that the 2007 Agreement should enter into force definitively among themselves, the Council would consider a draft Resolution extending the time-limit for deposit of instruments of ratification, acceptance or approval by signatory Governments, and would also consider establishing procedures for accession by non-signatory Governments.

C. Further extension of the ICA 2001

14. Under the provisions of Article 52 (Duration and termination) of the ICA 2001, the Agreement may be extended beyond 30 September 2007 for one or more successive periods not to exceed six years in total. The ICA 2001 has been extended three times, for a period of one year on each occasion, to enable Governments to complete membership formalities for the ICA 2007 (by Resolutions 432, 438 and 443 until 30 September 2008, 2009 and 2010 respectively).

15. If the requirements necessary for the entry into force of the ICA 2007 have not been met by the time of the 105th Council Session, the 2001 Agreement could be extended for a further year with a view to avoiding financial difficulties for the Organization (see document WP-Council 202/10 containing a draft Resolution).

16. If the ICA 2001 is further extended, the Council would consider a draft Resolution extending the time-limit for signature by Governments listed in Section C of Annex II, and for deposit of instruments of ratification, acceptance or approval by Governments listed in Sections B and C of Annex II.

Financial and other implications of options A and B

17. It should be noted that options A and B would have financial implications for the Organization, as countries which have not completed membership procedures are not required to pay contributions to the Administrative Budget. In the case of the 2001 Agreement which entered into force on 1 October 2001, only 18 Members of the 1994 Agreement had completed the procedures by 25 September 2001, resulting 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.

18. The designation of representations and office-holders for ICO bodies established under the ICA 2007 would need to be determined at the 105th Session of the Council, before these bodies could meet. They include the Projects Committee, Promotion and Market Development Committee and Finance and Administration Committee, as well as the Statistics Committee. The Council will consider the issue of the Consultative Forum at this Session.

19. The Rules of the Organization and Financial Rules were finalized by the Council at its 102nd Session in March 2009 and will take effect on the entry into force of the ICA 2007. All documents relating to the 2007 Agreement will need to be considered at the first Session of

the Council after the entry into force of the new Agreement as noted by the Council in March 2010. Strategic documents such as the strategic action plan, development strategy for coffee and programme of activities are scheduled to be discussed and approved at the 105th Session of the Council.

Other matters

Notification of provisional application

20. Under the provisions of Article 41 (Provisional application), a signatory Government which intends to ratify, accept or approve the 2007 Agreement may, at any time, notify the Depositary that it will apply the Agreement provisionally in accordance with its legal procedures.

Accession

21. Accession is generally used by States wishing to express their consent to be bound by a treaty where the deadline for signature has passed. 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 the 2007 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. The Council will review the situation of membership regularly, and may decide at a future Session to establish procedures for accession, in accordance with Article 43.

Conclusion

22. As it is unlikely that option A would be feasible and in the light of the adverse financial implications of option B outlined in paragraph 17 above, option C would appear to be the preferred way forward, involving the extension of the 2001 Agreement and time-limits for signature and deposit of instruments relating to the ICA 2007.

23. The Council will consider a draft Resolution extending the 2001 Agreement for a further year (see document WP-Council 202/10). The Council will also consider a draft Resolution extending the time-limit for signature by Governments listed in Section C of Annex II and for deposit of instruments of ratification, acceptance or approval by Governments listed in Sections B and C of Annex II.

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

The position of signatures, notification of provisional application and instruments of ratification, acceptance and approval as at **14 September 2010** is as follows:

| | DATE OF SIGNATURE | NOTIFICATION OF PROVISIONAL APPLICATION | TYPE OF INSTRUMENT DEPOSITED | DATE OF DEPOSIT OF INSTRUMENT | PERCENTAGE OF VOTES FOR THE PURPOSES OF ENTRY INTO FORCE |
|-------------------------------|----------------------|---|------------------------------------|----------------------------------|---|
| Exporting Members (40) | | | | | |
| Angola | 19 May 2008 | | Approval | 22 September 2009 | 0.5 |
| Benin | 23 September 2009 | | | | |
| Brazil | 19 May 2008 | | | | |
| Burundi | 21 September 2009 | | Acceptance | 21 September 2009 | 0.8 |
| Cameroon | 23 May 2008 | | | | |
| Central African Republic | 22 May 2008 | | Ratification | 24 August 2010 | 0.5 |
| Colombia | 20 May 2008 | 2 December 2008 | | | 10.0 |
| Congo, Dem. Rep. of | 23 September 2009 | | | | |
| Costa Rica | 29 May 2008 | | Ratification | 11 December 2009 | 1.8 |
| Côte d'Ivoire | 18 July 2008 | | Approval | 15 October 2008 | 2.6 |
| Cuba | 29 August 2008 | | Ratification | 4 December 2008 | 0.5 |
| Ecuador | 30 September 2008 | | Ratification | 30 September 2008 | 1.3 |
| El Salvador | 25 June 2008 | | Ratification | 4 December 2008 | 1.7 |
| Ethiopia | 28 August 2008 | | Ratification | 8 July 2010 | 2.8 |
| Gabon | 22 July 2008 | | Acceptance | 25 February 2009 | 0.5 |
| Ghana | 11 July 2008 | | Ratification | 17 August 2009 | 0.5 |
| Guatemala | 29 August 2008 | | | | |
| Guinea | 2 July 2008 | | | | |
| Honduras | 27 June 2008 | | Ratification | 7 June 2010 | 2.9 |
| India | 28 August 2008 | | Ratification | 22 September 2008 | 3.6 |
| Indonesia | 25 June 2008 | | Ratification | 5 February 2009 | 5.5 |
| Kenya | 22 May 2008 | | Ratification | 22 May 2008 | 1.2 |
| Liberia | 26 August 2008 | | Ratification | 6 October 2009 | n.a. |
| Madagascar | 25 September 2009 | | | | |
| Malawi | 28 August 2008 | | | | |
| Mexico | 23 June 2009 | | Ratification | 8 April 2010 | 2.6 |
| Nicaragua | 19 March 2009 | | Ratification | 12 August 2009 | 1.6 |
| Nigeria | 21 July 2008 | | | | |
| Panama | 1 July 2008 | | Ratification | 12 March 2009 | 0.6 |
| Papua New Guinea | 7 November 2008 | 6 November 2009 | | | 1.5 |
| Rwanda | 18 July 2008 | | | | |
| Tanzania | 23 July 2008 | 22 September 2009 | | | 1.1 |
| Thailand | 4 August 2009 | | Ratification | 4 August 2009 | 0.8 |
| Timor-Leste | 19 August 2008 | | Ratification | 5 January 2009 | n.a. |
| Togo | 23 May 2008 | | | | |
| Uganda | 21 September 2009 | | Ratification | 1 March 2010 | 2.7 |
| Vietnam | 28 August 2008 | | Approval | 28 August 2008 | 12.7 |
| Yemen | 27 February 2008 | | Ratification | 14 July 2010 | n.a. |
| Zambia | 11 September 2009 | | | | |
| Zimbabwe | 20 August 2009 | | | | |
| Total | | | | | 60.3 |

| | DATE OF SIGNATURE | NOTIFICATION OF PROVISIONAL APPLICATION | TYPE OF INSTRUMENT DEPOSITED | DATE OF DEPOSIT OF INSTRUMENT | PERCENTAGE OF VOTES FOR THE PURPOSES OF ENTRY INTO FORCE |
|------------------------------|----------------------|---|------------------------------------|----------------------------------|---|
| Importing Members (6) | | | | | |
| European Union | 17 June 2008 | | Approval | 17 June 2008 | 68.0 |
| <i>Austria</i> | | | | | |
| <i>Belgium</i> | | | | | |
| <i>Bulgaria</i> | | | | | |
| <i>Cyprus</i> | | | | | |
| <i>Czech Republic</i> | | | | | |
| <i>Denmark</i> | | | | | |
| <i>Estonia</i> | | | | | |
| <i>Finland</i> | | | | | |
| <i>France</i> | | | | | |
| <i>Germany</i> | | | | | |
| <i>Greece</i> | | | | | |
| <i>Hungary</i> | | | | | |
| <i>Ireland</i> | | | | | |
| <i>Italy</i> | | | | | |
| <i>Latvia</i> | | | | | |
| <i>Lithuania</i> | | | | | |
| <i>Luxembourg</i> | | | | | |
| <i>Malta</i> | | | | | |
| <i>Netherlands</i> | | | | | |
| <i>Poland</i> | | | | | |
| <i>Portugal</i> | | | | | |
| <i>Romania</i> | | | | | |
| <i>Slovakia</i> | | | | | |
| <i>Slovenia</i> | | | | | |
| <i>Spain</i> | | | | | |
| <i>Sweden</i> | | | | | |
| <i>United Kingdom</i> | | | | | |
| Norway | 2 June 2010 | | | | |
| Switzerland | 22 May 2008 | | Ratification | 11 September 2009 | 1.8 |
| Tunisia | 5 October 2009 | | | | |
| Turkey | 28 August 2008 | | | | n.a. |
| United States of America | 28 August 2008 | | Acceptance | 28 August 2008 | 21.8 |
| Total | | | | | 91.6 |

n.a. = not applicable

**PERCENTAGE OF VOTES NECESSARY FOR THE
ENTRY INTO FORCE OF THE 2007 AGREEMENT
(AS AT 14 SEPTEMBER 2010)**

| 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 |
| Angola | 0.5 | European Union | 68.0 |
| Burundi | 0.8 | Switzerland | 1.8 |
| Central African Republic | 0.5 | United States of America | 21.8 |
| Colombia 1/ | 10.0 | | |
| Costa Rica | 1.8 | | |
| Côte d'Ivoire | 2.6 | | |
| Cuba | 0.5 | | |
| Ecuador | 1.3 | | |
| El Salvador | 1.7 | | |
| Ethiopia | 2.8 | | |
| Gabon | 0.5 | | |
| Ghana | 0.5 | | |
| Honduras | 2.9 | | |
| India | 3.6 | | |
| Indonesia | 5.5 | | |
| Kenya | 1.2 | | |
| Liberia | n.a. | | |
| Mexico | 2.6 | | |
| Nicaragua | 1.6 | | |
| Panama | 0.6 | | |
| Papua New Guinea 1/ | 1.5 | | |
| Tanzania 1/ | 1.1 | | |
| Thailand | 0.8 | | |
| Timor-Leste | n.a. | | |
| Uganda | 2.7 | | |
| Vietnam | 12.7 | | |
| Yemen | n.a. | | |
| Total (27) | 60.3 | Total (3) | 91.6 |
| 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 |
| Benin | 0.5 | Norway | 1.2 |
| Brazil | 24.4 | Tunisia | n.a. |
| Cameroon | 1.2 | Turkey | n.a. |
| Congo, Dem. Rep | 0.7 | | |
| Guatemala | 3.6 | | |
| Guinea | 0.8 | | |
| Madagascar | 0.6 | | |
| Malawi | 0.5 | | |
| Nigeria | 0.5 | | |
| Rwanda | 0.8 | | |
| Togo | 0.6 | | |
| Zambia | 0.6 | | |
| Zimbabwe | 0.6 | | |
| Total (13) | 35.4 | Total (3) | 1.2 |

n.a. = not applicable

1/ Provisional application

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| 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 |
| Bolivia | 0.6 | Japan 3/ | 7.2 |
| Congo, Rep. | 0.5 | | |
| Dominican Republic | 0.6 | | |
| Haiti | 0.5 | | |
| Jamaica | 0.5 | | |
| Paraguay | 0.5 | | |
| Philippines 2/ | 0.5 | | |
| Venezuela, Bolivarian Rep. of | 0.6 | | |
| Total (8) | 4.3 | Total (1) | 7.2 |
| D. Governments invited as observers to attend the 98th Session of the Council at which the ICA 2007 was adopted | | | |
| Algeria | Fiji | Mozambique | Sudan |
| Argentina | Iceland | Myanmar | Syrian Arab Republic |
| Armenia | Iran, Islamic Republic of | Nepal | The former Yugoslav |
| Australia | Israel | New Zealand | Republic of Macedonia |
| Belarus | Jordan | Oman | Timor-Leste 4/ |
| Belize | Korea, Republic of | Pakistan | Trinidad and Tobago |
| Botswana | Kuwait | Peru | Tunisia 5/ |
| Cambodia | Lao People's Dem. Rep. | Russian Federation | Turkey 5/ |
| Canada | Lebanon | Saudi Arabia | Ukraine |
| Chile | Liberia 4/ | Serbia | United Arab Emirates |
| China | Libyan Arab Jamahiriya | Sierra Leone | Uruguay |
| Croatia | Malaysia | Singapore | Yemen 4/ |
| Egypt | Mauritius | South Africa | |
| Equatorial Guinea | Morocco | Sri Lanka | |

2/ The Philippines will accede to the ICA 2007 once it enters into force.

3/ See document ED-2060/09

4/ Ratification completed

5/ Signatory to the ICA 2007

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.