



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

WP Council 164/08

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International Coffee Council
99th Session (special)
25 January 2008
London, England

International Coffee Agreement 2007
Procedures for membership

Background

1. The Executive Director presents his compliments and wishes to inform Members about the procedures they are required to fulfil in order to become a Contracting Party to the International Coffee Agreement (ICA) 2007. It should be noted that the procedures are contingent on the International Coffee Organization (ICO) being designated as the Depositary for the ICA 2007.

2. The ICA 2007 was adopted by the Council at its 98th Session on 28 September 2007 by Resolution 431. At its 99th Session on 25 January 2008, the Council will be invited to consider the Executive Director's recommendation that the ICO should be the Depositary of the 2007 Agreement. Documents ED-2025/07, ED-2029/07 and WP-Council 161/07, respectively, contain information about the options for the Depositary, a request for contact details on communications on the ICA 2007 and a draft Council Resolution.

3. Bearing in mind that the period for signature is only seven months (from 1 February to 31 August 2008), Members are urged to initiate contacts with the treaty sections of their Ministries of Foreign Affairs with a view to signing the ICA 2007 well in advance of the deadline of **31 August 2008**. Likewise, Members are requested to deposit instruments of ratification, acceptance or approval well in advance of the deadline of **30 September 2008**.

Action

Members are invited to indicate to the Executive Director if this document provides the type of guidance their authorities will require.

PROCEDURES FOR MEMBERSHIP OF THE ICA 2007

Introduction

1. The ICA 2007 was adopted by Resolution 431 of the International Coffee Council on 28 September 2007. Membership procedures are outlined in Articles 40 to 43 of the 2007 Agreement. They include the following:

- (a) Signature during the period **1 February to 31 August 2008**, followed by ratification, acceptance or approval by **30 September 2008**; or
- (b) Signature during the period **1 February to 31 August 2008** and notification of provisional application (this may be the fastest procedure for new Members), followed by ratification, acceptance or approval;
- (c) Accession (this option is only available after the deadline for signature has passed and once the Council has established conditions for accession).

Depositary contact details

2. The contact details of the Depositary for the ICA 2007 will be as follows:

International Coffee Organization
22 Berners Street
London W1T 3DD
United Kingdom
Tel: +44 (0) 20 7612 0600 (switchboard)
Fax: +44 (0) 20 7612 0630 (fax)
Email: depositary@ico.org
Website: www.ico.org

Original of the Agreement

3. The ICO will prepare the original of the ICA 2007, which will be open for signature at the ICO headquarters from 1 February 2008 to 31 August 2008.

Certified true copies

4. The ICO will prepare certified true copies of the ICA 2007 and distribute two copies of each with a depositary notification to each State eligible to become a Member (i.e. Contracting Parties to the ICA 2001 and Governments invited to attend the 98th Session at which the 2007 Agreement was negotiated – see Annex III). Electronic copies will also be posted on the ICO website. In the case of the European Community, this information will be sent to the representative of the EC.

Treaty Sections of Ministries of Foreign Affairs

5. ICO Members are invited to contact the Treaty Sections or Legal Offices of their Ministries of Foreign Affairs and request them to initiate the necessary formalities for membership of the 2007 Agreement, which are outlined below.

Signature

6. Signature indicates the intention of a Government to apply the Agreement. Article 40 of the ICA 2007 provides that it will be open for signature at the Depository Headquarters from **1 February to 31 August 2008**. It should be noted that a Government only becomes a Contracting Party to the ICA 2007 after ratifying, accepting or approving it.

Steps for signature of the ICA 2007 are summarized as follows:

- (a) Prepare an instrument of Full Powers for the proposed signatory in accordance with the section on Full Powers below and Annex IV.
- (b) Deliver instrument of Full Powers by hand, mail, fax or scanned copy by email to the ICO headquarters in London for advance review (at least three days in advance is suggested), preferably including translation into English as appropriate.
- (c) Make an appointment with the Depository Office of the ICO to sign the Agreement (during the period that the Agreement is open for signature).
- (d) Attend the appointment and present the original instrument of Full Powers (if sent by fax or scanned copy by email previously).
- (e) Signature ceremony for the ICA 2007.
- (f) The ICO, in its capacity as Depository, will notify Members and non-member Governments about this action.

Full Powers

7. In international law, a Head of State, Head of Government or Foreign Minister may sign a treaty in his or her own right. Anyone else needs to produce "Full Powers" signed by one of those three representatives. Full Powers can take time to produce so they should be prepared well in advance of the proposed date of signature of the Agreement (at least three days in advance is suggested). The UN Treaty Section advises that Full Powers must include the following (see model in Annex IV):

- It must be signed by either the Head of State, Head of Government, or Minister for Foreign Affairs.
- The signature must be legible.
- It should indicate the title of the treaty.
- Full Powers must state the full name and title of the representative authorized to sign.

- Date and place of signature must be indicated.
- Official seal (optional, but cannot replace the signature of one of the three authorized authorities).

Ratification, acceptance or approval

8. The ICA 2007 requires ratification, acceptance or approval by Governments which have signed it and intend to apply it. Under the provisions of Article 40, Members should deposit their instruments of ratification, acceptance or approval with the Depository **by 30 September 2008**. Instruments of ratification, acceptance or approval must be signed by the Head of State or Government, or by the Minister for Foreign Affairs, and deposited with the Depository. A model instrument, which may be adapted as appropriate, is attached as Annex V. The UN Treaty Section notes that instruments must include:

- Title, date and place of conclusion of treaty.
- Full name and title of the person signing the instrument (i.e. the Head of State, Head of Government or Minister for Foreign Affairs).
- An unambiguous expression of the intent of the Government to consider itself bound by the treaty and to undertake faithfully to observe and implement its provisions.
- Date and place where the instrument was issued.
- Signature of the Head of State, Head of Government or Minister for Foreign Affairs (the official seal is not sufficient).

Steps for ratification, acceptance or approval to the Agreement are as follows:

- (a) Following signature of the ICA 2007, prepare instrument of ratification, acceptance or approval (as applicable) in accordance with model in Annex IV.
- (b) Instrument is signed by Head of State or Government, or Minister for Foreign Affairs.
- (c) Deliver the instrument by hand, mail, fax or scanned copy to the ICO (with a courtesy translation to be provided in English where appropriate).
- (d) If the instrument is faxed or sent as a scanned copy to the ICO, deliver the original instrument to the Organization as soon as possible thereafter.
- (e) The ICO will examine the instrument to ensure it is in due and proper form.
- (f) The ICO will notify Members and non-member Governments about this action.

Notification of provisional application

9. Similar wording to that of the model instrument in Annex V, adapted as appropriate, may be used for notifications of provisional application.

Accession

10. Accession is generally used by States wishing to express their consent to be bound by a treaty where the deadline for signature has passed. The Council will review the situation of membership in September 2008, and may decide at that point to establish procedures for accession, in accordance with Article 43.

Depositary notifications

11. The ICO will advise all interested Parties, by means of depositary notifications, about actions relating to the ICA 2007. Parties eligible to sign the new Agreement have been invited to confirm the contact details for communications relating to the ICA 2007, such as the Treaty Sections or Legal Offices of their Ministries of Foreign Affairs (see documents ED-2029/07 for Members, and ED-2030/07 for non-member countries).

Further information

12. The website of the ICO will include a section containing copies of all relevant documents such as certified true copies of the ICA 2007, the status on the ICA 2007, depositary notifications, etc. (see www.ico.org/ica2007.asp). The United Nations Treaty Handbook provides further information on depositary practice, as well as a glossary of terms such as accession, ratification, etc. This can be consulted on the UN Treaty Section website (<http://untreaty.un.org>) as well as on the ICO website. Further information about membership procedures is also provided in the following Annexes:

Annex I	Summary of steps for membership of the ICA 2007
Annex II	Outline schedule of actions for the ICA 2007
Annex III	Countries eligible to sign the ICA 2007
Annex IV	Model instrument of Full Powers
Annex V	Model of an instrument of ratification, acceptance or approval to the International Coffee Agreement 2007

Relevant ICO documents

- ED-2025/07 – Options for the designation of a Depositary for the ICA 2007
- ED-2029/07 – Preparations for the Depositary
- Resolution 431 – Adoption of text of ICA 2007
- WP-Council 161/07 – Draft Resolution: Depositary for the ICA 2007
- International Coffee Agreement 2007: certified true copy

SUMMARY OF STEPS FOR MEMBERSHIP OF THE ICA 2007

ICO sends certified true copies to countries eligible to become Members and notifies them that the ICA 2007 will be open for signature on 1 February 2008 (following its designation as Depository by the Council on 25 January 2008)



Governments initiate steps for membership of the ICA 2007



SIGNATURE
(1 February – 31 August 2008)

Prepare instrument of Full Powers for the proposed signatory (in accordance with Annex IV)



Deliver instrument of Full Powers by hand, mail, fax or scanned copy to the ICO headquarters for advance verification (at least three days in advance)



Make an appointment for signature with the ICO Depository Office (Tel: +44 (0) 20 7612 0600, Email: depository@ico.org)



Attend the appointment:
- Present original Full Powers (if sent by fax or scanned copy previously)
- Sign the ICA 2007



RATIFICATION, ACCEPTANCE OR APPROVAL
(1 February – 30 September 2008)

Prepare instrument of ratification, acceptance or approval (in accordance with Annex V)



Deliver instrument by hand, mail, fax or scanned copy to the ICO headquarters (22 Berners Street, London W1T 3DD, Fax: +44 (0) 20 7612 0630, Email: depository@ico.org)



If the instrument is sent by fax or as a scanned copy to the ICO, deliver the original instrument to the ICO as soon as possible thereafter



ICO confirms receipt, reviews the instrument and notifies Members of this action

OUTLINE SCHEDULE OF ACTIONS FOR THE ICA 2007

Date	Action
25 January 2008	<ul style="list-style-type: none"> • 99th Session (special) of the International Council to decide that the ICO should be the depositary for the 2007 Agreement.
25 – 31 January 2008	<ul style="list-style-type: none"> • Original text of ICA 2007 in English, French, Portuguese and Spanish prepared and deposited with the ICO. • Two certified true copies and a depositary notification sent to all States entitled to become Members of the ICA 2007.
1 February – 31 August 2008	<ul style="list-style-type: none"> • ICA 2007 will be open for signature at Depositary Headquarters from 1 February until 31 August 2008. • ICO issues depositary notification advising that the ICA 2007 is open for signature, together with information on procedures. • Governments initiate steps for signature of ICA 2007 and preparation and deposit of instruments. • ICO circulates depositary notifications about relevant actions.
19 – 23 May 2008	<ul style="list-style-type: none"> • Opportunity for signatures and deposit of instruments at time of 100th Session of Council. • Council reviews progress on membership of ICA 2007.
31 August 2008	<ul style="list-style-type: none"> • End of period for signature of ICA 2007.
22 – 26 September 2008	<ul style="list-style-type: none"> • Opportunity for deposit of instruments at time of 101st Council Session. • Council reviews progress on membership. • If further time is needed to complete procedures for the ICA 2007, a Council Resolution extending the ICA 2001 for a further year may be necessary. The Council may also consider a Resolution establishing conditions for accession. • A Council Resolution granting extensions of time to signatory Governments unable to deposit instruments by deadline of 30 September 2008 may be necessary.
25 September 2008	<ul style="list-style-type: none"> • ICA 2007 may enter into force provisionally on this date or on any date within next 12 months if it has not already entered into force definitively, if signatory Governments holding votes as described in paragraph (1) of Article 42 have deposited instruments of ratification, acceptance or approval, or sent notifications of provisional application. • Council Resolution on entry into force (if appropriate). • ICO notifies Members about entry into force (if appropriate).
30 September 2008	<ul style="list-style-type: none"> • Deadline for deposit of instruments of ratification, acceptance or approval (unless extended by Council during its 101st Session).
May 2009	<ul style="list-style-type: none"> • 102nd Session of International Coffee Council – review of progress on membership.
25 September 2009	<ul style="list-style-type: none"> • If Agreement has not entered into force definitively or provisionally by this date, signatory Governments which have deposited instruments of ratification, etc. may by mutual consent decide that it shall enter into force amongst themselves.

ANNEX III

COUNTRIES ELIGIBLE TO SIGN THE ICA 2007

Article 40 of the ICA 2007 provides that Contracting Parties to the ICA 2001 and Governments invited to the Council session at which the ICA 2007 was adopted may sign the ICA 2007. They are listed as follows:

Contracting Parties to the ICA 2001: Exporting Members

Angola	Dominican Republic	Kenya	Togo
Benin	Ecuador	Madagascar	Uganda
Bolivia	El Salvador	Malawi	Venezuela (Bolivarian Republic of)
Brazil	Ethiopia	Mexico	Vietnam
Burundi	Gabon	Nicaragua	Zambia
Cameroon	Ghana	Nigeria	Zimbabwe
Central African Republic	Guatemala	Panama	
Colombia	Guinea	Papua New Guinea	
Congo, Dem. Rep. of	Haiti	Paraguay	
Congo, Republic of	Honduras	Philippines	
Costa Rica	India	Rwanda	
Côte d'Ivoire	Indonesia	Tanzania	
Cuba	Jamaica	Thailand	

Contracting Parties to the ICA 2001: Importing Members

European Community¹
Japan
Norway
Switzerland
USA

Governments invited as observers to attend the 98th Session of the Council at which the ICA 2007 was negotiated

Algeria	Fiji	Mozambique	Sudan
Argentina	Iceland	Myanmar	Syrian Arab Republic
Armenia	Iran, Islamic Republic of	Nepal	The former Yugoslav Republic of Macedonia
Australia	Israel	New Zealand	Timor-Leste
Belarus	Jordan	Oman	Trinidad and Tobago
Belize	Korea, Republic of	Pakistan	Tunisia
Botswana	Kuwait	Peru	Turkey
Cambodia	Lao People's Dem. Rep.	Russian Federation	Ukraine
Canada	Lebanon	Saudi Arabia	United Arab Emirates
Chile	Liberia	Serbia	Uruguay
China	Libyan Arab Jamahiriya	Sierra Leone	Yemen
Croatia	Malaysia	Singapore	
Egypt	Mauritius	South Africa	
Equatorial Guinea	Morocco	Sri Lanka	

¹ Paragraph (4) of Article 40 of the 2007 Agreement provides that the EC shall deposit a declaration with the Depositary confirming its exclusive competence over matters governed by the Agreement. The member States of the EC shall not be eligible to become Contracting Parties to the Agreement.

MODEL INSTRUMENT OF FULL POWERS

FULL POWERS

I, [name and title of the Head of State, Head of Government or Minister for Foreign Affairs],

HEREBY AUTHORIZE [name and title] to sign the International Coffee Agreement 2007 on behalf of the Government of [name of State].

Done at [place] on [date].

[Signature] *

Official seal (optional)

*** To be signed by the Head of State or Government, or Minister for Foreign Affairs**

ANNEX V

**MODEL OF AN INSTRUMENT OF RATIFICATION, ACCEPTANCE
OR APPROVAL TO THE INTERNATIONAL COFFEE AGREEMENT 2007**

WHEREAS the INTERNATIONAL COFFEE AGREEMENT, (“the Agreement”), 2007 was opened for signature at the International Coffee Organization Headquarters on 1 February 2008,

NOW THEREFORE I, [NAME AND TITLE of the Head of State, Head of Government or Minister for Foreign Affairs], declare that the Government of [name of State], having considered the obligations and conditions of participation in the above mentioned Agreement, [has ratified] [accepts] [has approved] the same and undertakes faithfully to perform and carry out the obligations therein contained.

IN WITNESS WHEREOF, I have signed this instrument of [ratification] [acceptance] [approval] at [place] on [date].

[Signature]*

*** To be signed by the Head of State or Government, or Minister for Foreign Affairs**

Contact address for the Depositary:

Depositary Office
International Coffee Organization
22 Berners Street
London W1T 3DD
United Kingdom

Tel: +44 (0) 20 7612 0600 (switchboard)

Fax: +44 (0) 20 7612 0630 (fax)

Email: depositary@ico.org