



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

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Preparations for the ICA 2007

Comments by the United States

Background

1. This document contains comments by the United States on proposed revisions to the following Rules and draft terms of reference for committees and advisory bodies of the International Coffee Organization (ICO):

- Proposals for revisions to the Rules of the International Coffee Organization (document WP-Council 165/08)
- Draft terms of reference for the Consultative Forum on Coffee Sector Finance (document WP-Council 167/08)
- Draft terms of reference for the Promotion and Market Development Committee (document WP-Council 168/08)
- Draft terms of reference for the Projects Committee (document WP-Council 169/08)
- Draft terms of reference for the Finance and Administration Committee (document WP-Council 170/08)
- Terms of reference for the Statistics Committee – Proposals for revisions (document WP-Council 171/08)
- Proposals for revisions to the Financial Regulations and Financial Rules of the International Coffee Organization (document WP-Council 172/08)
- Draft Strategic Action Plan (document WP-Council 173/08)

Action

The Council is requested to consider this document.

**COMMENTS BY THE UNITED STATES ON PROPOSED
REVISIONS TO RULES AND DRAFT TERMS OF REFERENCE
FOR COMMITTEES AND ADVISORY BODIES
OF THE INTERNATIONAL COFFEE ORGANIZATION**

**PROPOSALS FOR REVISIONS TO THE RULES OF THE ICO
(document WP-Council 165/08)**

Rule 6 “Observers”: We agree that this rule should reflect the language from Article 11. However, we note that paragraph (3) of Article 11 has two elements: the Council may “invite any non-member country or any organization referred to in Articles 15 and 16...” and, in addition, “At each session, the Council shall decide on the admission of observers.” In combination with Articles 15 and 16, the objective of Article 11 is two-fold: to ensure appropriate transparency for the work of the Council and to encourage the Council to seek to promote cooperation between the ICO and other, relevant organizations through participation in Council sessions. In implementing procedures on observers, we see value in establishing and maintaining a list of observers, as well as a process to respond to ad hoc requests. Finally, we note that Article 16 does not specify the scope of the term “non-governmental organizations.” In order to clarify that private sector coffee associations or bodies may also be observers at Council sessions, we propose to add reference to them in Rule 6.

Therefore, we propose the following language for Rule 6:

**RULE 6
Observers**

“The Council may create and maintain a list of non-members and organizations referred to in Article 15 or 16, including private sector coffee associations and bodies, who will be invited to attend Council sessions as observers on a regular basis. This list will be comprised of those non-member countries and organizations that have previously attended Council sessions and the participation of whom on an ongoing basis is likely to make a meaningful contribution to Council deliberations. Any non-member country or any organization referred to in Article 15 or 16, including private sector coffee associations and bodies, may also request observer status at sessions of the Council by submitting such a request in writing to the Executive Director. At each session, the Secretariat shall submit to the Council for its approval a list of organizations that have submitted a request to attend a session as an observer. The Council may also invite organizations and individuals to attend Council sessions to make presentations or to make a contribution on a specific topic to be considered by the Council. Observers shall have no voice in the proceedings of the Council except by invitation of the Council.

New Rule “Seating of Members”: We question the need for this Rule. The topic is a matter of logistics (the arrangement of seats in the Council room) and does not seem to require the formality of a rule. If such a rule is needed, we do not consider it appropriate to make specific provision for seating members of the European Community. If needed, the rule should say no more than:

“Members shall, in general, be seated alphabetically. Members may, in advance of Council sessions, request other seating arrangements so long as these arrangements are consistent with the smooth functioning of the Council.”

Rule 8 “Reception of communications”: In order to be consistent with changes made in other rules (deleting Rules 2 and 7, changes in Rule 3), paragraph 2 should be deleted. In the last sentence there is an “if” missing after “immediately.” The first sentence of paragraph 1 can be simplified as follows:

"Each Member shall inform the Executive Director of the name, address and email of the designated person to whom all notices and other communications should be sent."

Rule 11 “Nomination”: Recognizing that there is a rotation established by Article 10 of the Agreement, this Rule should be made general:

“In accordance with paragraph 2 of Article 10, nominations for positions of Chair and Vice-chair of the Council shall be made by the category of Members that will hold each post.”

Rule 28 “Representation for voting”: Although it is not a new addition to rule 28, we question the inclusion of “...or by the representative of the Member..” as a source of a written statement to transfer voting rights. Although we recognize that circumstances leading to such authorizations may arise during Council sessions, we read paragraph 2 of Article 13 to refer to an authorization granted by competent (home) authority, consistent with Rule 1. In addition, in the reference to “extent of authorization” the second sentence appears to anticipate circumstances of partial representation. This is not referred to in paragraph 2 of Article 13 and we question the value of adding it. We propose to modify the first and second sentences as follows:

"A Member who authorizes another Member to represent its interests and exercise its right to vote under paragraph (2) of Article 13 shall submit such authorization, or withdrawal of such authorization, prepared by the authorizing Member’s competent authorities, in writing to the Executive Director, who shall notify the Council of these statements. The Executive Director shall maintain a file..."

New Rule “Election of Members of ICO bodies”: We question the need for a separate (new) rule that makes reference to election of Members to subsidiary bodies. Relevant elements of this proposed new rule can and should be incorporated into Rule 35. Reference to “election” of Members of subsidiary bodies is not appropriate (the appropriate term is “decided”). Paragraph 2 is not necessary because it simply repeats language from paragraph (2) of Article 21 of the Agreement.

Rule 35 “Committees and subsidiary bodies”: We agree that this Rule must be updated to reflect the language of paragraph (2) of Article 9. However, paragraph 1 must be restructured and divided into at least two paragraphs to accurately reflect the structures of the organization and the different requirements for committees and subsidiary bodies (on the one hand) and advisory bodies (the Private Sector Consultative Board (PSCB), the World Coffee Conference and the Consultative Forum on Coffee Sector Finance) on the other. We propose the following language for Rule 35:

RULE 35

Committees, subsidiary bodies and advisory bodies of the Council

1. In accordance with the provisions of paragraph (3) of Article 6 and paragraph (2) of Article 9 of the Agreement, the Council shall designate Members to serve on committees, subsidiary bodies and advisory bodies. In doing so, the Council shall seek to balance participation of importing and exporting Members. Only accredited delegates, in accordance with rules on accreditation and composition of delegations, may serve on committees and subsidiary bodies.
2. The designation of members of committees and subsidiary bodies, including the designation of officers, shall normally be decided during the last regular session of the Council during the coffee year.
3. Membership of advisory bodies (the Private Sector Consultative Board, the World Coffee Conference and the Consultative Forum on Coffee Sector Finance) shall normally be decided during the last regular session of the Council during the coffee year. Participation in these advisory bodies is not restricted to Members. The Council shall designate or, in the case of the Private Sector Consultative Board, approve the designation of the chair of these advisory bodies.
4. Committees, subsidiary bodies and advisory bodies shall operate under terms of reference decided by the Council and shall submit reports on their work and all decisions taken by them to the Council.
5. The Rules of the International Coffee Organization shall also apply to meetings of committees, subsidiary bodies and advisory bodies.

Rule 39 “Procedure for decision of specific questions by the Council without meeting”. We recognize that the elimination of the Executive Board creates the need to revise this Rule. However, we do not agree that the Executive Director should have sole responsibility for requesting a decision without meeting. This responsibility was previously held by the Executive Board. We agree that the Executive Director should be able to make such a request, but this opportunity must also be available to Members. Therefore, we propose to use an approach similar to that used in Article 11 to request a special session of the Council. A special session can be requested by any ten Members. We propose a lower threshold (perhaps a minimum of two members, with at least one importing Member and one exporting Member) to request a decision without meeting:

“At the request of at least two Members, representing both categories of membership, the Chairman of the Council shall arrange for the Council to decide upon a specific question without meeting.”

Rule 57 “Preparation and adoption of the Administrative Budget”: As drafted, the Rule creates some ambiguity regarding the authority of the Council for the oversight of the preparation and consideration of the budget. The Rule should reflect the role of the Committee as advising the Council, with approval of the Budget reserved for the Council. Proposed language for paragraph 1 is:

- “1. Not later than 31 May of each year, the Executive Director shall, in accordance with paragraph (1) of Article 20 of the Agreement, submit to the Council through the Finance and Administration Committee, a draft Administrative Budget for the following financial year in the manner

prescribed in Rule 56. The draft Administrative Budget shall be revised, if necessary, to take into account the advice of the Finance and Administration Committee and sent to the persons designated in accordance with Rule 8 to arrive at least 30 days before the session of the Council at which the Administrative Budget is to be approved.”

Rule 70 “Application and recommendation”: It is not clear this rule is needed in light of the fact that Article 43 states that the Council must establish the "procedures" for accession. The "recommendation" of the Council referred to in Rule 70 is a bit confusing and this rule does not cover the European Community and other intergovernmental organizations referenced in Article 43.

Rule 71 “Approval”: See comments on Rule 70. Although this Rule introduces the provision that an entity awaiting accession shall have the status of observer, we question the need for this because provisions on observers (Rule 6) are sufficiently flexible.

**DRAFT TERMS OF REFERENCE FOR THE
CONSULTATIVE FORUM ON COFFEE SECTOR FINANCE
(document WP-Council 167/08)**

We welcome the document as a starting point for discussion of the terms of reference for this new body. However, the draft does little more than repeat the contents of Article 31 of the Agreement. Article 31 provides considerable flexibility regarding the Forum, including how it will function and how frequently it will meet. Recognizing that the Forum is new and unique, we see the need to provide additional information on the Forum in the terms of reference.

As examples of the need for additional information, under “purpose” we see the need to add specific information about the Forum’s activities. Under “composition” the draft simply repeats the text of paragraph (2) of Article 31. Under “meeting/procedures” we see the need for additional information on how frequently the Forum will meet and further information on how it might function.

Therefore, we propose the following terms of reference for the Forum:

**TERMS OF REFERENCE FOR THE
CONSULTATIVE FORUM ON COFFEE SECTOR FINANCE**

1. The purpose of the Consultative Forum on Coffee Sector Finance (hereinafter referred to as the Forum) shall be to facilitate consultations on topics related to finance and risk management in the coffee sector, with a particular emphasis on the needs of small- and medium-scale producers and local communities in coffee producing areas.
2. In its activities, the Forum shall:
 - (a) promote coordination among governments, intergovernmental bodies, non-government organizations and the private sector on topics and activities related to coffee sector finance;
 - (b) promote the exchange of information and possible coordination of activities among the development assistance agencies of Members; and
 - (c) assist the Council in identifying sources of support for projects, studies and other activities of the International Coffee Organization.
3. The Council shall designate a Chairman and Vice-Chairman of the Forum who may serve for terms of up to 2 years. The Chairman of the Forum, in consultation with the Executive Director, may establish a Steering Committee for the Forum for the purpose of organizing and promoting the work of the Forum. The Chairman, Vice-Chairman and members of the Steering Committee of the Forum shall not be paid by the Organization. The Chairman, Vice-Chairman and members of the Steering Committee of the Forum shall be invited to participate in meetings of the Council as observers.
4. The Forum shall include representatives of Members, intergovernmental organizations, financial institutions, the private sector, non-governmental organizations and others with relevant expertise. The Chairman of the Forum, in consultation with the Executive Director, shall issue invitations to participate in the Forum and shall inform the Council of such invitations. The Forum shall be open to participation by all Members.
5. As a general rule, the Forum shall be convened at least once per year, in conjunction with a meeting of the Council. In consultation with the Executive Director, the Chairman of the Forum may use electronic media to convene meetings and pursue the objectives of the Forum.

**DRAFT TERMS OF REFERENCE FOR THE
PROMOTION AND MARKET DEVELOPMENT COMMITTEE
(document WP-Council 168/08)**

In paragraph 1 we propose to use language that is more consistent with the language of paragraph (2) of Article 25 and also recognizes the benefits of coordination across relevant committees. Taking into account the relatively small number of importing Members as well as the benefits of smaller, more efficient committees, we propose a committee composed of eight Members, open to participation by all Members. We propose that all committees operate with the rules as adopted by the Council (see proposed text for paragraph (5) of Rule 35). Rather than authorizing the Chairman of the Committee to make independent decisions on observers, we propose to have the Committee's meetings open to observers that have been approved by the Council. Finally, although we agree that the Committee should be prepared to operate in all of the official languages of the Organization, the terms of reference should allow for circumstances when this might not be necessary.

Therefore we propose the following terms of reference for this Committee:

**TERMS OF REFERENCE FOR THE
PROMOTION AND MARKET DEVELOPMENT COMMITTEE**

1. The purpose of the Committee shall be to advise the Council on the Organization's activities related to promotion and market development. These activities may include information campaigns, research, capacity-building and studies related to coffee production and consumption. In consultation with the Finance and Administration Committee and the Projects Committee, the Promotion and Market Development Committee shall also provide advice to the Council on financing activities related to promotion and market development.
2. The Committee shall be composed of four representatives of exporting Members and four representatives of importing Members, appointed for a one-year term by the Council at the last session of the coffee year. Meetings of the Committee shall be open to all Members. The quorum required for a meeting of the Committee shall be three representatives of exporting Members and three representatives of importing Members.
3. The Chairman and Vice-chairman of the Committee shall be from different categories of membership and shall alternate each coffee year. The positions of Chairman and Vice-Chairman shall be selected by Members of the category of membership holding the post. The Chairman of the Committee shall report to the Council.
4. Unless the Council decides otherwise, the Committee shall meet at the seat of the Organization, during regular sessions of the Council. The Committee may establish working groups to assist it in its work.
5. The Committee shall operate in the official languages of the Organizations, although the Committee may conduct its business in a single language if all members of the Committee agree to do so.
6. Non-members and organizations who have been invited to participate in Council sessions as observers may also participate in the Committee as observers.

DRAFT TERMS OF REFERENCE FOR THE PROJECTS COMMITTEE
(document WP-Council 169/08)

In paragraph 1 we propose to use language that draws from the language of Article 28. Taking into account the relatively small number of importing Members as well as the benefits of smaller, more efficient committees, we propose a committee composed of six Members, open to participation by all Members. We propose that all committees operate with the rules as adopted by the Council (see proposed text for paragraph (5) of Rule 35). Rather than authorizing the Chairman of the Committee to make independent decisions on observers, we propose to have the Committee's meetings open to observers that have been approved by the Council. Finally, although we agree that the Committee should be prepared to operate in all of the official languages of the Organization, the terms of reference should allow for circumstances when this might not be necessary.

Therefore, we propose the following terms of reference for this Committee:

TERMS OF REFERENCE FOR THE PROJECTS COMMITTEE

1. The purpose of the Committee shall be to advise the Council on the project activities of the Organization, including procedures and mechanisms for submitting, appraising, approving, implementing, monitoring and evaluating results. Taking into account the Council's strategic action plan, and in consultation with the Promotion and Market Development Committee and the Statistics Committee, the Committee shall identify short-term priorities for project activities and advise the Council.
2. The Committee shall be composed of three representatives of exporting Members and three representatives of importing Members, appointed for a one-year term by the Council at the last session of the coffee year. Meetings of the Committee shall be open to all Members. The quorum required for a meeting of the Committee shall be two representatives of exporting Members and two representatives of importing Members.
3. The Chairman and Vice-chairman of the Committee shall be from different categories of membership and shall alternate each coffee year. The positions of Chairman and Vice-Chairman shall be selected by Members of the category of membership holding the post. The Chairman of the Committee shall report to the Council.
4. Unless the Council decides otherwise, the Committee shall meet at the seat of the Organization, during regular sessions of the Council. The Committee may establish working groups to assist it in its work.
5. The Committee shall operate in the official languages of the Organizations, although the Committee may conduct its business in a single language if all members of the Committee agree to do so.
6. Non-members and organizations who have been invited to participate in Council sessions as observers may also participate in the Committee as observers.

**DRAFT TERMS OF REFERENCE FOR THE
FINANCE AND ADMINISTRATION COMMITTEE
(document WP-Council 170/08)**

In paragraph 1 we propose to use language that draws from the language of Article 18 that describes the responsibilities of the Committee to include responsibility for "...supervising the preparation of the Administrative Budget to be presented to the Council for approval..." and "...monitoring income and expenditure matters related to the administration of the Organization."

We propose a committee composed of eight Members, open to participation by all Members. We propose that all committees operate with the rules as adopted by the Council (see proposed text for paragraph (5) of Rule 35). Rather than authorizing the Chairman of the Committee to make independent decisions on observers, we propose to have the Committee's meetings open to observers that have been approved by the Council.

Therefore, we propose the following terms of reference for this Committee:

**TERMS OF REFERENCE FOR THE
FINANCE AND ADMINISTRATION COMMITTEE**

1. The purpose of the Committee shall be to advise the Council on all matters of a financial or administrative nature, including supervising the preparation of the Administrative Budget to be presented to the Council for approval, monitoring income and expenditure matters related to the administration of the Organization and the appointment of independent auditors.
2. The Committee shall be composed of four representatives of exporting Members and four representatives of importing Members, appointed for a one-year term by the Council at the last session of the coffee year. Meetings of the Committee shall be open to all Members. The quorum required for a meeting of the Committee shall be three representatives of exporting Members and three representatives of importing Members.
3. The Chairman and Vice-chairman of the Committee shall be from different categories of membership and shall alternate each coffee year. The positions of Chairman and Vice-Chairman shall be selected by Members of the category of membership holding the post. The Chairman of the Committee shall report to the Council.
4. Unless the Council decides otherwise, the Committee shall meet at the seat of the Organization, during regular sessions of the Council. The Committee may establish working groups to assist it in its work.
5. The Committee shall operate in English, although documents shall be available in the official languages of the Organization.

**TERMS OF REFERENCE FOR THE STATISTICS COMMITTEE
PROPOSAL FOR REVISIONS
(document WP-Council 171/08)**

In paragraph 1 we propose to use language that draws from the language of Article 32. In composing the Committee we propose to depart from the current practice of having the Executive Director designate some members of the Committee. Instead, we propose to have Members designate all members of the Committee. We propose a committee composed of six Members, open to participation by all Members. We propose that all committees operate with the rules as adopted by the Council (see proposed text for paragraph (5) of Rule 35). Rather than authorizing the Chairman of the Committee to make independent decisions on observers, we propose to have the Committee's meetings open to observers that have been approved by the Council.

Therefore, we propose the following terms of reference for this committee:

TERMS OF REFERENCE FOR THE STATISTICS COMMITTEE

1. The purpose of the Committee shall be to advise the Council on the statistical work of the Organization, including all aspects of the collection, compilation and dissemination of statistical information on world production, prices, exports, imports, re-exports, distribution and consumption of coffee. The Committee shall also advise the Council on compliance by Members in providing statistical information as well as on technical assistance needed by Members in order to supply statistical and other information required by the Agreement.
2. The Committee shall be composed of three representatives of exporting Members and three representatives of importing Members, appointed for a one-year term by the Council at the last session of the coffee year. Meetings of the Committee shall be open to all Members. The quorum required for a meeting of the Committee shall be two representatives of exporting Members and two representatives of importing Members.
3. The Chairman and Vice-chairman of the Committee shall be from different categories of membership and shall alternate each coffee year. The positions of Chairman and Vice-Chairman shall be selected by Members of the category of membership holding the post. The Chairman of the Committee shall report to the Council.
4. Unless the Council decides otherwise, the Committee shall meet at the seat of the Organization, during regular sessions of the Council. The Committee may establish working groups to assist it in its work.
5. The Committee shall operate in English.
6. Non-members and organizations who have been invited to participate in Council sessions as observers may also participate in the Committee as observers.

**PROPOSALS FOR REVISIONS TO THE
FINANCIAL REGULATIONS AND FINANCIAL RULES
OF THE INTERNATIONAL COFFEE ORGANIZATION
(document WP-Council 172/08)**

We propose changes in this draft to better reflect the language of Article 18 of the Agreement. As noted in comments on Rule 57 of the Rules of the International Coffee Organization and on the terms of reference for the Finance and Administration Committee, Article 18 describes the responsibilities of the Finance and Administration Committee "...supervising the preparation of the Administrative Budget to be presented to the Council for approval..." and "...monitoring income and expenditure matters related to the administration of the Organization." The Agreement does not provide for, or require an "approval" on the part of the Committee.

Therefore, in most instances in document WP-Council 172/08 (for example, Regulations 4.4, 6.5, 7.2, 8.1, and 13.2) the reference to the Finance and Administration Committee should be replaced by reference to the Council.

In Regulation 9.1 the appropriate language is "...inform the Council through the Finance and Administration Committee..."

In Regulation 12.2 the appropriate language is "... and subject to any special direction of the Council through the Finance and Administration Committee".

DRAFT STRATEGIC ACTION PLAN
(document WP-Council 173/08)

We welcome the draft as a starting point for developing a “strategic action plan” as called for by paragraph (4) of Article 9 of the Agreement. Although the draft has a number of elements that we wish to see in the final document, it is also missing some key features of a strategic plan. For example:

- The presentation of the plan should be revised in order to more effectively communicate a strategic direction and the Organization’s unique contributions. In addition to providing guidance for the Organization, the document should present a compelling description to external audiences.
- The document needs to establish a shorter time period for the strategic outlook. We suggest three to five years as the basis for the plan. Because the current draft uses the duration of the Agreement as the time horizon, it fails to provide a sense of strategic focus.
- The document must identify key issues to be addressed by the Organization in the near term. These issues should be drawn from a more targeted and balanced assessment of economic, environmental and social challenges facing the coffee sector.
- The description of the Organization’s comparative advantages is helpful, but too long. In addition, the comparative advantages should be directly linked to actions to address the near term issues that are identified and the Organization’s proposed strategic focus.

As a way forward, we propose that the Council form a small Working Group of Members to guide preparation of a new draft for the strategic action plan to be circulated in advance of the next Council session.