



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

ICC 99-2

4 February 2008  
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**Decisions and Resolutions adopted  
at the 99<sup>th</sup> Session (special) of the  
International Coffee Council**

**25 January 2008**

1. The International Coffee Council, chaired by Mr G.V. Krishna Rau of India, met on 25 January 2008.

**Item 1: Adoption of the Agenda**

2. The Council adopted the draft Agenda contained in document ICC-99-0 Rev. 2 and took note of the schedule of meetings.

**Item 2: Admission of observers**

3. The Council noted that procedures for the admission of observers to meetings would be incorporated in the Rules of the Organization (document EB-3820/02), which would be revised in the light of the 2007 Agreement and circulated to Members for consideration.

**Item 3: Votes and credentials**

**Item 3.1: Votes in the Council for coffee year 2007/08**

4. The Council took note of the situation of outstanding payments affecting voting rights as at 23 January 2008 and approved the redistribution of votes in the Council and Executive Board for coffee year 2007/08 contained in document EB-3934/07 Rev. 1.

**Item 3.2:                    Credentials**

5.        The Council noted that the Secretariat had examined the credentials received from Members and had advised the Chairman of the Council that they had been found to be in good and due form. The Council decided to approve the report on credentials which was subsequently circulated, together with the List of Delegations, as document ICC-99-1.

**Item 4:                      International Coffee Agreement (ICA) 2007**

**Item 4.1:                    Depository of the ICA 2007**

6.        The Executive Director said that in September 2007, the United Nations Treaty Section had confirmed that it could only accept the deposit of international treaties in the official UN languages, and could not accept an authentic text of the ICA 2007 in Portuguese. It had therefore been necessary to consider alternative options for the Depository of the 2007 Agreement. In October 2007, he had circulated document ED-2025/07 containing information on the various options for the Depository. He had approached the International Maritime Organization (IMO) and the Food and Agriculture Organization (FAO) of the United Nations. While both organizations would be willing to provide assistance and cooperate as necessary, they would not be in a position to perform the full functions of Depository of the ICA 2007 in all four languages of the Organization. He had recommended that the most practical solution would be to designate the ICO as the Depository and had received positive responses from Members in support of this proposal, as reported in document ED-2029/07. Document WP-Council 161/07 Rev. 1 containing a draft Resolution designating the ICO as the Depository had been introduced to the Executive Board at its meeting on 24 January 2008. Following informal consultations, a revised version was circulated as document WP-Council 161/07 Rev. 2. In response to questions, he confirmed that the role of Depository would not result in additional financial costs for the Organization, although it would involve some additional work for staff. The necessary preparatory work had been undertaken, and once designated as Depository, the ICO would fulfil the functions as outlined in WP-Council 161/07 Rev. 2.

7.        Following some discussion, the Council agreed to replace the reference to “Secretary-General” in paragraph 2 (g) with “Secretariat”, and noted that the texts would be harmonized in the languages. The Council decided to approve the draft Resolution contained in document WP-Council 161/07 Rev. 2 with this amendment, which became Resolution 436, a copy of which is attached to these Decisions. The Council further noted that the Executive Director, as the chief administrative officer of the ICO, would circulate Depository Notifications informing Members about the opening for signature of the Agreement and prepare certified true copies for transmission to Members.

**Item 4.2:                    Procedures for membership**

8.        The Secretary introduced document WP-Council 164/08 containing information on procedures for membership of the 2007 Agreement, together with models of Full Powers and model instruments of ratification, acceptance etc. An updated version to reflect the ICO's status as Depositary would be circulated after the meeting. Relevant documents (including certified true copies of the Agreement, Resolutions, membership procedures etc.) were available in all four languages on the ICO website ([www.ico.org/depositary\\_e.asp](http://www.ico.org/depositary_e.asp)) and a link to this section could be found on the homepage of the website. He noted that the Executive Director had circulated document ED-2029/07 requesting Members to confirm the contact point for receipt of communications relating to the ICA 2007. Where no additional contact details had been received, the Executive Director would transmit information about the Agreement to the designated contacts for ICO Members with a request to forward the relevant documents to their Ministries of Foreign Affairs. Where contact details had been provided, copies of correspondence would be sent to the designated contact to the ICO.

9.        Certified true copies of the Agreement, which were prepared to enable Governments to complete the internal procedures for ratification etc., would be circulated during the week of 28 January 2008 and Members who had not received these documents by the middle of February 2008 should contact the Executive Director. The 2007 Agreement would be open for signature at the ICO Headquarters in London from 1 February to 31 August 2008. Bearing in mind that the period for signature was only seven months, Members were urged to initiate contacts with the treaty sections of their Ministries of Foreign Affairs with a view to signing the 2007 Agreement well in advance of the deadline of 31 August. Members were also requested to deposit instruments of ratification, acceptance or approval well in advance of the deadline of 30 September 2008. The ICO would be in regular contact with Members to follow up progress and provide guidance and assistance as necessary. In the case of signature, the Secretary said that Full Powers, which were needed to authorize representatives to sign the 2007 Agreement and which could only be signed by the Head of State or Government, or Minister for Foreign Affairs, should be sent at least three days in advance of the date proposed for signature. Finally he said that there would be an opportunity for Ministers, Heads of Mission or Heads of Delegation to sign the 2007 Agreement at the time of the 100<sup>th</sup> Council session in May 2008.

10.      The Council took note of this information, and further noted the importance of all Members initiating the necessary steps for signature and membership as a matter of urgency. The Council also noted a request for the Secretariat to simultaneously conduct the necessary formalities for accession by Members, in view of the considerable time required for some countries to conclude the formalities of membership.

**Item 4.3: Preparations for the implementation of the ICA 2007**

11. The Executive Director said that document WP-Council 162/08 contained a comprehensive report on preparations for the implementation of the 2007 Agreement, together with an outline schedule of actions. Areas covered included depositary functions and membership, the development of a strategic action plan, the coffee development strategy, the Rules of the Organization, cooperation with other organizations, and terms of reference for new bodies such as the Consultative Forum on Coffee Sector Finance, the Projects Committee, the Finance and Administration Committee, and the Promotion and Market Development Committee. In the case of the terms of reference, the ICO would need to consider issues such as representation of Members and budgetary implications of new activities. He invited Members to send him suggestions and contributions to assist with the preparation of the draft documents outlined in document WP-Council 162/08 **by 29 February 2008**, following which the ICO would prepare draft documents and circulate these for consideration in May 2008.

12. The Council took note of this information and further noted the request for the Secretariat to make available to Members copies of the documents which needed to be revised, such as by posting them on the ICO website<sup>1</sup>.

13. In discussions on this item, the need to consider how Members could interact and contribute to the development of terms of reference for new ICO bodies and the strategic plan was raised. It would be important for Members to receive early drafts of the documents, in order to have constructive discussions in May, and it was suggested that the draft documents should be circulated at least one month in advance of the May meetings, to enable Members to consult with their capitals. It would also be preferable for discussions to take place in the Council, to allow all Members to contribute, and in anticipation of the new structure. The need for Members to respect the deadline for contributions of 29 February 2008 was stressed. It was suggested that an ad hoc working group, or a virtual group could be established to facilitate exchanges of views on the mandates of the new bodies and the new strategic plan in advance of the May meetings. One option could be to set up a discussion forum for Members on the ICO website. The need to consider access to legal expertise was raised, either through ICO Members, committees, or the legal departments of UN bodies. The new bodies should allow for the broadest possible participation of Members. If the requirements for the entry into force of the 2007 Agreement were met by the deadline of 30 September, the new bodies would need to be ready to operate with effect from 1 October 2008, otherwise the current Agreement would need to be extended.

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<sup>1</sup> *Relevant documents are available for consultation on the 2007 Agreement section (Implementation) of the website: [www.ico.org/ICAimplementation\\_e.asp](http://www.ico.org/ICAimplementation_e.asp)*

14. The Executive Director welcomed the widest possible involvement of Members in preparing for the implementation of the new Agreement. He noted that the ICO did not have the resources to convene a meeting of a working group before the May meetings and stressed the need to avoid incurring additional financial costs. Members were invited to send their contributions to him by 29 February, following which they would be circulated. The Secretariat would prepare draft documents reflecting the proposals received for circulation to Members and consultations could take place using electronic communication. The matter could then be considered by the Board or Council in May, when all Members would be represented. Depending on progress made in May, a final decision could be taken in September 2008. Regarding the suggestion to involve legal experts, he considered that matters could be dealt with by existing staff. Finally, he noted the need for the Organization to know, for budgetary reasons, when it would be operating on the basis of the 2007 Agreement, to ensure that sufficient resources were allocated to the new tasks.

15. The Council welcomed the interest of Members in contributing to the implementation of the new Agreement. It noted that the Secretariat would make available documents where input was needed and further noted that Members should send their contributions to the Executive Director by 29 February 2008. The Secretariat would then circulate proposals received and prepare draft texts, which should be ready at least one month before the next meetings, to enable Members to consider these, for consultations to take place, and for constructive discussions to be held in May.

**Item 5:                   3<sup>rd</sup> World Coffee Conference**

16. The Executive Director said that the 1<sup>st</sup> World Coffee Conference had been held in London in May 2001, chaired by Dr Jorge Cárdenas, General Manager of the National Federation of Coffee Growers of Colombia, and the 2<sup>nd</sup> World Coffee Conference had taken place in Salvador, Brazil in September 2005, chaired by Mr Roberto Rodrigues, Minister for Agriculture, Livestock and Food Supply of Brazil. He suggested that the next Conference could take place in either late 2009 or early 2010 in order to allow sufficient time for the necessary preparations to be made. Article 21 of the 2001 Agreement provided that the Conference should normally be held at the seat of the Organization, during a session of the Council. If the Council accepted an invitation by a Member to hold a session in its territory, the Conference could also be held in that territory, in which case the additional costs to the Organization should be borne by the country hosting the session. He had received a communication from Guatemala expressing its interest in hosting the 3<sup>rd</sup> World Coffee Conference. He invited Members to consider this matter and proposed that consultations should take place, following which the Council would consider the appointment of a Chairman of the Conference at its next Session.

17. The representative of Guatemala confirmed his country's interest in hosting the Conference.

18. The Council took note of this information and noted that Brazil, which had hosted the 2<sup>nd</sup> World Conference, was willing to assist and share its experience as necessary. The Council further noted that it would be advisable for the Conference to be held at the time of a Council session, to ensure the widest possible participation by Members. Finally, the Council noted that Members were invited to consider the invitation by Guatemala and any other proposals that might be received before the next Session.

**Item 6: Financial and administrative matters**

**Item 6.1: Administrative Accounts of the Organization for the financial year 2006/07 and Report of the Auditors**

19. The Chairman of the Executive Board said that in the case of the Administrative Accounts of the Organization and the Report of the Auditors (contained in document EB-3940/07 Rev. 1), the Board had decided to follow the practice of referring this document to the Finance Committee for more detailed consideration. The Finance Committee would report to the Council with its recommendations at the next Session in May 2008.

**Item 6.2: Other financial and administrative matters**

20. The Chairman of the Executive Board said that the Board had taken note of the report on the financial situation contained in document WP-Board 1045/08. Regarding payment of arrears, the Board had noted that while both Uganda and the Democratic Republic of Congo were making efforts to comply with the provisions of Resolution 429 and 430 respectively, their performance was not fully in accordance with the agreed schedule of payments, and both Members had been urged to adhere to the schedule established in the Resolutions. In the case of Nicaragua, which had submitted a proposal to reschedule its arrears over a three-year period in September 2007 (document WP-Board 1041/07), the Board had noted that the proposed initial payment had not yet been received. In the case of Malawi, which had submitted a request to reduce its number of votes, this country had been advised that there was no provision in the Agreement for this. Finally he said that the Board had approved proposals for salary scales and the basis for contributions to the Provident Fund for staff in the General Service category, and proposals for salary scales for staff in the Professional and higher categories, contained in documents WP-Board 1042/07 and WP-Board 1046/08 respectively.

21. The Council took note of this information and noted that the Executive Director had been informed that the Government of Nicaragua had recently published in its official gazette a decree authorizing the repayment of Nicaragua's arrears of this country to the ICO, and payment was expected in due course. The Council further noted the importance of Members meeting their financial obligations to the ICO in a timely manner. While it was a sensitive issue, it was also vital for the Organization that contributions were received on time. In the

case of Uganda and the Democratic Republic of Congo, a special schedule for payment of arrears had been established and should be adhered to. The situation of arrears would be reviewed again by both the Finance Committee and the Council in May 2008.

**Item 7: Other business**

*Signing of Project Agreement*

22. The Project Agreement for the project ‘Access to finance for the development of diversification crops in coffee producing areas’ was signed by the Executive Director and the representative of the Project Executing Agency, Mr Jean-Claude Bagnon Bayou, Managing Director of the Fonds de Garantie des Cooperatives Café-Cacao (FGCCC).

*Farewell*

23. The Council noted that the spokesperson for the producers, Ms Ana Maria Sampaio Fernandes of Brazil, was leaving London as she had been appointed as Ambassador to Kenya. Members paid tribute to Ms Fernandes for her constructive cooperation and excellent contribution to the work of the Organization and wished her every success in her new post.

*Retirement of ICO staff*

24. The Council noted that Mr Richard Marks, Head of Information Services, and Ms Lucía Pérez-Valdés, Personal Assistant, were retiring on 1 April 2008 after over 36 and 25 years service respectively, and expressed its appreciation to both staff for their long-standing service and dedication to the work of the Organization.

**Item 8: Future meetings**

25. The Council noted that its next Session would take place at the headquarters of the Organization in London from 19 to 23 May 2008.



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ICC

Resolution 436

25 January 2008  
Original: English

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**International Coffee Council**  
99<sup>th</sup> Session (special)  
25 January 2008  
London, England

**Resolution number 436**

APPROVED AT THE FIRST PLENARY  
MEETING, 25 JANUARY 2008

**Depositary for the  
International Coffee Agreement 2007**

WHEREAS:

The International Coffee Council has approved Resolution 431 adopting the text of the International Coffee Agreement 2007 at its 98<sup>th</sup> Session on 28 September 2007;

The Treaty Section of the United Nations in New York has informed the Executive Director that the Secretary-General of the United Nations is not in a position to be the Depositary for all the authentic texts of the 2007 Agreement;

The Council noted that the Executive Director would review the legal and financial options for the designation of a Depositary for the 2007 Agreement;

Paragraph (1) of Article 76 (Depositaries of Treaties) of the 1969 Vienna Convention on the Law of Treaties provides that the designation of the depositary of a treaty may be made by the negotiating States, and that the depositary may be one or more States, an international organization or the chief administrative officer of the organization; and

Paragraph (10) of Article 2 of the International Coffee Agreement 2007 provides that the Council shall designate the Depositary by a consensus decision before 31 January 2008 and that such a decision shall form an integral part of the 2007 Agreement,



THE INTERNATIONAL COFFEE COUNCIL

RESOLVES:

1. To designate the International Coffee Organization as the Depositary for the International Coffee Agreement 2007.
2. To request the Executive Director, in his capacity as chief administrative officer of the International Coffee Organization, to take the necessary steps to ensure that the Organization performs the functions of the Depositary for the 2007 Agreement, in a manner consistent with the 1969 Vienna Convention on the Law of Treaties, including but not limited to:
  - (a) Keeping custody of the original text of the Agreement and of any Full Powers delivered to the Depositary.
  - (b) Preparing and circulating certified true copies of the original Agreement.
  - (c) Receiving any signatures to the Agreement, and receiving and keeping custody of any instruments, notifications and communications relating to it.
  - (d) Examining whether the signature or any instrument, notification or communication relating to the Agreement is in due and proper form.
  - (e) Circulating acts, notifications and communications relating to the Agreement.
  - (f) Advising when the number of instruments of ratification, acceptance or approval, or notifications of provisional application, required for the entry or provisional entry into force of the Agreement as set out in Article 42 thereof, have been deposited.
  - (g) Registering the Agreement with the Secretariat of the United Nations.
  - (h) In the event of any questions about the performance of the Depositary's functions, bringing the matter to the attention of the signatories and Contracting Parties, or, where appropriate, to the International Coffee Council.