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COVER NOTE

From:	Secretary-General of the European Commission, signed by Ms Martine DEPREZ, Director
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To:	Mr Jeppe TRANHOLM-MIKKELSEN, Secretary-General of the Council of the European Union
No. Cion doc.:	COM(2021) 374 final
Subject:	Recommendation for a COUNCIL DECISION authorising the opening of negotiations to amend the International Coffee Agreement 2007

Delegations will find attached document COM(2021) 374 final.

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EUROPEAN
COMMISSION

Brussels, 8.7.2021
COM(2021) 374 final

Recommendation for a

COUNCIL DECISION

authorising the opening of negotiations to amend the International Coffee Agreement 2007

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EXPLANATORY MEMORANDUM

The present recommendation concerns a Decision authorising the Commission to engage on behalf of the Union in the negotiations to partially review the International Coffee Agreement 2007 (ICA) that the International Coffee Council (ICC) decided to launch.

1. CONTEXT OF THE RECOMMENDATION

• The International Coffee Agreement 2007

The European Union is a Contracting Party to the ICA.

The International Coffee Agreement 2007 (ICA or 'the Agreement') aims to ensure enhanced international cooperation in connection with world coffee matters and related issues, provide a forum for intergovernmental consultations on coffee and on ways to improve the world coffee economy, to facilitate trade by collecting and providing information on the world coffee market and to encourage increased demand for coffee globally. A core objective of the Agreement is to encourage Contracting Parties to develop a sustainable coffee sector in economic, social and environmental terms.

The Agreement was signed in 2007 and entered into force on 2 February 2011 for a period of ten years; then extended for one year (until 1 February 2022). If necessary, the Agreement can be extended for a maximum of eight years.

• The International Coffee Organization and the International Coffee Council

Article 6 of the ICA states that the International Coffee Organization (ICO or 'the Organization'), established under the International Coffee Agreement 1962, administers the provisions and supervises the operation of the Agreement.

As per Article 9 of the ICA, the International Coffee Council (ICC or 'the Council') is the responsible body for the performance of all functions necessary to carry out the provisions of the Agreement, as the highest authority of the Organization. The Council consists of all the Members of the Organization (Article 8 of the ICA).

Pursuant to Article 49 of the ICA, the ICC may propose amendments to the Agreement and communicate them to all Contracting Parties. Article 14 of the ICA stipulates that all decisions of the ICC, including amendments to the Agreement shall be taken in principle by consensus. If consensus cannot be reached, the ICC shall take decisions and make recommendations by a distributed majority vote of 70% or more of exporting Members present and voting, and 70% or more of importing Members, present and voting, counted separately.

According to Article 12 of the ICA, Members of the ICC hold 2000 votes in total. Each Member of the ICC holds a specified number of votes, which is annually adjusted by the Council following criteria defined by the ICA. The distribution of votes also determines a Member's contribution (Article 20(2) of the ICA). Currently, the Union is the largest contributor to the ICO.

• The review of the International Coffee Agreement

A partial review to reform the ICA is necessary and is clearly in the interest of the Union to further align it with the practices the Union fosters in other international commodity boards,

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and to take developments in the global coffee market since 2007 into consideration. This has been regularly outlined during the last ICC sessions in 2019-2020 .

In 2019, at the request of the ICC, the ICO established a Working Group on the revision of the ICA.

The main changes to be proposed in a revision of the ICA concern the governance of the Organization, a possible review of the voting and contribution system and the participation of the private sector and civil society in the work of the Organization.

The overall objectives of the Agreement, as outlined in Article 1 of the ICA, are not intended to change.

The Commission guidelines to recommended changes are set out in the Annex.

2. LEGAL BASIS, SUBSIDIARITY AND PROPORTIONALITY

- **Legal basis**

Article 218(3) of the Treaty on the Functioning of the European Union (TFEU) provides for authorising the opening of negotiations and, depending on the subject of the agreement envisaged, nominating the Union negotiator or the head of the Union's negotiating team.

Article 218(4) TFEU provides for the Council to address directives to the negotiator and designate a special committee in consultation with which the negotiations must be conducted.

The envisaged negotiating directives should give the negotiator on behalf of the Union the means to achieve the overall objectives as set out under the point 1. They are outlined in the Annex.

Therefore, the procedural legal basis for the proposed recommendation is Article 218(3) and 218(4) TFEU.

- **Subsidiarity (for non-exclusive competence)**

The Union is a Contracting Party to the ICA and is represented by the Commission in the ICC. EU Member States are not separate Contracting Parties to the ICA. The Union's negotiation of the partial review of the ICA pertains to the exclusive competence of the Union.

- **Proportionality**

Reviewing the ICA in order to achieve an improved treaty leading to the modernisation of the Agreement is in the interest of the Union. Currently, the EU's participation in the ICO is beneficial both to the Union and to other ICO Members. Modernising the Agreement is expected to attract more interest in the ICO, potentially attracting new Members as well as increasing the relevance of its work.

3. RESULTS OF EX-POST EVALUATIONS, STAKEHOLDER CONSULTATIONS AND IMPACT ASSESSMENTS

- **Stakeholder consultations**

The Union is a Contracting Party to the ICA and its membership is generally supported since 2007 by the coffee sector in the EU as well as by most EU Member States. It is not deemed necessary to engage in stakeholder consultations regarding a process, which merely aims to continue the Union's membership of the ICO, albeit under a set of rules that are in line with those of other international commodity bodies of which the EU is a member.

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- **Impact assessment**

A full-fledged impact assessment is not necessary, since the measure is not likely to have significant economic, environmental or social impacts. The successful amendment of the ICA would result in a reformed governance considered as a key starting point for the modernisation of the ICA and should also result in a more active participation in the ICO by its Members.

4. BUDGETARY IMPLICATIONS

The opening of negotiations is not deemed to have a budgetary impact.

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THE COUNCIL OF THE EUROPEAN UNION,

Having regard to the Treaty on the Functioning of the European Union, and in particular Article 218(3) and (4) thereof,

Having regard to the recommendation from the European Commission,

Whereas:

(1) The Union is a Contracting Party to the International Coffee Agreement 2007 ('the Agreement') and a member of the International Coffee Organization ('ICO'). The Agreement was concluded by the Union by Council Decision 2008/579/EC[1] and it entered into force on 2 February 2011.

(2) Pursuant to Article 9 of the Agreement, the International Coffee Council ('ICC') is the responsible body for the performance of all functions necessary to carry out the provisions of the Agreement, as the highest authority of the ICO.

(3) Pursuant to Article 49 of the Agreement, the ICC may propose an amendment to the Agreement to be decided by the Members. Article 14 of the Agreement stipulates that all decisions of the ICC, in principle, are to be taken by consensus. In the absence of consensus, the ICC shall take decisions by a distributed majority vote of 70% or more of exporting Members present and voting, and 70% or more of importing Members, present and voting, counted separately.

(4) At the request of the ICC, a Working Group on the revision of the Agreement has been established. This Working Group identified the governance of the ICO, the voting and contribution system and the participation of the private sector and civil society in the work of the ICO as the three main issues for partial review of the Agreement. In this respect, the Working group is drafting proposals of amendments of the Agreement subject to approval of the ICC.

(5) It is in the interest of the Union to reform the Agreement in order to align it with the practices the Union fosters in other international commodity boards, as well as with developments in the global coffee market since 2007.

(6) It is therefore appropriate that the Commission be authorised to engage in negotiations for the partial review of the Agreement.

[1] Council Decision 2008/579/EC of 16 June 2008 on the signing and conclusion on behalf of the European Community of the International Coffee Agreement 2007 (OJ L 186, 15.7.2008, p. 12).

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HAS ADOPTED THIS DECISION:

Article 1

The Commission is hereby authorised to negotiate, on behalf of the Union, amendments to the International Coffee Agreement 2007.

Article 2

The negotiating directives are set out in the Annex.

Article 3

The negotiations shall be conducted in consultation with the Working Party on Commodities.

Article 4

This Decision is addressed to the Commission.

Done at Brussels,

For the Council
The President

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